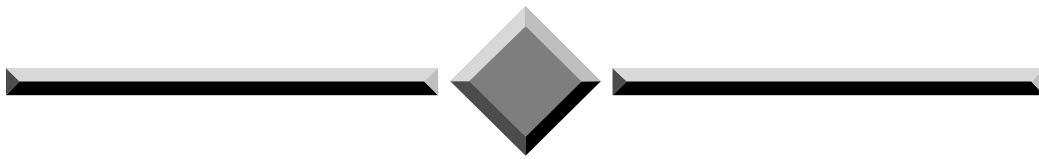


ALCOHOLIC BEVERAGE CONTROL HANDBOOK
FOR
MUNICIPAL ISSUING AUTHORITIES



STATE OF NEW JERSEY

Office of the Attorney General
Division of Alcoholic Beverage Control
140 East Front Street
P.O. Box 087
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If You Have A Question... Call Us!

(609) 984-2830

The Division of Alcoholic Beverage Control is as close to you as your telephone. If you are not sure which Bureau may be of assistance, please call our main number shown above. If you require assistance from a specific staff member, you are welcome to contact that individual directly via the following telephone numbers:

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Publications

The following publications, which are the authoritative sources of the laws and regulations governing the commerce of alcoholic beverages in New Jersey, have been cited extensively throughout this handbook. These publications are legal in nature and should be considered an important source material for all municipal issuing authorities.

NEW JERSEY ALCOHOLIC BEVERAGE CONTROL ACT

Title 33, New Jersey Statutes Annotated

Cited: N.J.S.A. 33:1-1

ALCOHOLIC BEVERAGE CONTROL REGULATIONS

Subtitle B, Title 13, Chapter 2, New Jersey Administrative Code

Cited: N.J.A.C. 13:2-1

Other useful source information is available from *A.B.C. BULLETINS* promulgated and published by the Division of Alcoholic Beverage Control as needed. The Bulletins contain information regarding changes in the law and regulations, notices from the Director, directives to licensees, and other pertinent information important to the regulation and operation of alcoholic beverage licenses in the State of New Jersey. Failure to follow directives published in a Bulletin can result in disciplinary action against a licensee. The Division encourages all municipal issuing authorities to avail themselves of this important information source.

Current Bulletins can be obtained by subscription from the Division of Alcoholic Beverage Control Administrative Services, P.O. Box 087, Trenton, New Jersey 08625. The cost is \$25.00 for a subscription.

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A.B.C. BOARD

Any municipality having a population of 15,000 or more may establish, by ordinance or resolution, a Municipal Board of Alcoholic Beverage Control. Such board consists of three members, no more than two of whom may be of the same political party, who are appointed for a term of three years. The appointments are made by the municipal governing body for a term of three years, with one of the initial appointments for one year, one for two years, and the third for three years. The members of the board are unsalaried except for qualifying municipalities located in counties of the first class, where board members may be compensated up to three thousand dollars per year. No salaried member may be an official, officer, or employee of the State of New Jersey, or any county or municipality therein. (N.J.S.A. 33:1-5.) Any duly constituted A.B.C. Board may, with the approval of the governing board or body of the municipality, appoint a secretary at a salary fixed by the governing body. (N.J.S.A. 33:1-5.4.) Once a municipal A.B.C. Board has been created, it has all the powers, duties, and obligations that the governing body of the municipality would ordinarily have in issuing retail licenses within the municipality and in enforcing alcoholic beverage control laws. (N.J.S.A. 33:1-24.) However, the municipal governing body still maintains all legislative power to pass ordinances.

APPEALS – GENERALLY

In cases where a licensee, applicant, or other interested person (with standing) objects to a specific action of the local issuing authority with respect to a license, that person may appeal the action to the Director. Because of the variety of circumstances and time frames within which appeals may be made, this section will briefly discuss the major aspects of the typical types of appeals filed with the Division. In all cases, the general filing procedures outlined immediately below should be followed. (See “HEARINGS REGARDING ISSUANCE, RENEWAL, OR TRANSFER OF LICENSE” and “APPEAL OF MUNICIPAL DISCIPLINARY ACTIONS.”)

Filing Procedure

An appeal is filed by presenting to the Division four (4) items: (1) a document called a “Notice and Petition of Appeal;” (2) an “Affidavit of Service,” which certifies that a copy of the Notice and Petition of Appeal was also filed with the local issuing authority; (3) a copy of the Resolution of the local issuing authority from which the licensee is appealing; and (4) a filing fee of \$100 in the form of money order, check, or attorney’s check which is payable to the “Division of A.B.C.” (Appeals filed in person may be accompanied with cash.) (See N.J.A.C. 13:2-17.1, et seq.) (See Appendix “A” Procedure to File an Appeal with the Division of Alcoholic Beverage Control.)

The Notice and Petition of Appeal should contain the following information: (1) the name, address, and telephone number of the person filing the appeal and the 12-digit license number of the license which is the subject of the appeal; (2) the name of the municipality and the date it took action; (3) the specific action being appealed; (4) the error or abuse of discretion that is claimed to have occurred; and (5) the relief requested.

In appeals by licensees involving the denial of renewal, the municipality must take some action on the current license if this appeal has been decided within the license term in which the appeal is filed. The licensee must still continue to file an appeal for each succeeding term that the licensee's privileges have been in effect in order to keep the appeal viable.

APPEAL OF MUNICIPAL DISCIPLINARY ACTIONS

Within 30 days after a municipality adopts a resolution suspending or revoking a license, the licensee may appeal by filing with the Division a "Notice and Petition of Appeal." (See "APPEALS – GENERALLY.") The only administrative penalties available to a municipal issuing authority as a result of a license violation hearing are suspension or revocation of license privileges. When a suspension is imposed on a license by the municipal issuing authority, the licensee may file an appeal in the same manner described above to request that the Director accept a monetary penalty in lieu of the suspension. When the appeal is properly filed, the Director may stay the effective date of the suspension or revocation until the appeal has been considered. (N.J.S.A. 33:1-31; N.J.A.C. 13:2-17.8.) If a municipality objects to a stay, it **must** Notice the Director and request a hearing. (See Appendix "A" Procedure to File an Appeal with the Division of Alcoholic Beverage Control.)

Division Appellate Review

Municipal actions appealed to the Division will usually be referred to the State's Office of Administrative Law for a hearing held before an Administrative Law Judge. The Judge will issue an Initial Decision and forward the matter for final determination by the Director. The Director must issue a final decision within 45 days, either accepting, rejecting, or modifying the Initial Decision. If a final decision is not issued within 45 days, the Administrative Law Judge's Initial Decision becomes final. The 45-day limit may be extended for good cause.

APPLICATION FORM

There is currently one universal application form for all types of licenses, both municipally issued and State issued, and for all license transactions. The application consists of twelve pages. The original of the completed application is

sent to the Division of Alcoholic Beverage Control, a copy is retained in the municipal file, and a copy is retained by the applicant for its records. A copy of the last 12-page application must be kept by the licensee on the licensed premises and be available for inspection. (N.J.A.C. 13:2-23.13(a)(2).)

The same license application form is used for all types of licenses, therefore, some of the information requested relates to State issued licenses and does not apply to retail licenses issued by the municipality. The instructions are printed on each page, and where the information requested is not applicable to a retail license transaction, the applicant may print a symbol "N/A" (for "not applicable").

The instructions for completing the application form are found printed on the cover of the application packet. There are general instructions for completing the application and special instructions for individual pages within the application. The following is a page by page description of the application form:

PAGE 1: Asks the applicant to state the type of license that is the subject of the application and the particular transaction that is being requested. The State assigned license number is affixed by the applicant if the application involves an existing license and the date the application is filed with the municipality. If the application is for the issuance of a new license, the date the license is granted is affixed in the space specified "Date Issued" by the municipal issuing authority. This should be the same date as specified in the Resolution. The section reserved for municipal use must be fully completed by the municipal issuing authority, and the application page must be signed by the municipal clerk or the local A.B.C. Board secretary, followed by the date of signature.

PAGE 2: Asks the applicant to state the business entity, company, or individual to whom the license is issued and the location address of the licensed premises. Care must be exercised to ensure that this information is accurate since the license certificate will be issued to the entity as it is listed. The information contained in the municipal resolution should be the same as that appearing on page two. In addition, page two information includes the telephone number of the licensed premises, the mailing address (if there is no licensed premises or if the mailing address is different than the licensed premises), the trade name (if the licensee uses a different business name than the name in which the license is issued), the New Jersey Sales Tax Certificate of Authority Number, and the status, i.e., active (open and in use at an operating place of business) or inactive (closed and not in use at an operating place of business). (See "INACTIVE LICENSES.")

PAGE 3: Asks the applicant to describe the area of the building and adjacent grounds, if any, that are licensed. A current sketch of the licensed premises must be submitted with a new application or whenever a change occurs from the last sketch submitted. It is important to have a clear delineation of the area included within the licensed premises. If there is more than one building under

the license, a separate page three should be submitted for each building. Full information is required on this page about the landlord and/or mortgagee.

PAGE 4: Asks the applicant to state information about the location of the licensed premises within proximity to a school or church, whether a vehicle will be used to deliver alcoholic beverage products for which a transit insignia is required, and the identification of any other business other than the sale of alcoholic beverages that will take place on the licensed premises. If another person, partnership, company, or entity other than the licensee is operating a business on the premises, that entity's name and address must be recorded on this page in the space provided. All retail licensees are required to submit an Annual Special Tax Registration to the federal Alcohol and Tobacco Tax and Trade Bureau ("TTB") with the proper annual fee. The date the form was submitted to the TTB is entered on page four. (This is in reality a reminder to the applicant that the TTB filing must be made.)

PAGE 5: Asks the applicant to provide information, including the name of any applicant or person with a beneficial interest in the license who has law enforcement authority for alcoholic beverage laws and that person's title and place of employment. In addition, the name of any individual who is the chief executive officer or member of the governing body or issuing authority who has an interest in the license must be disclosed in the space provided. If any party with an interest in the license has any interest in any brewery, winery, distillery, rectifying plant, importer, or wholesale alcoholic beverage business either as owner or part owner, landlord, tenant, mortgage holder, or as a stockholder, officer, director, agent, or employee, that information must be entered on this page. Where there is an affirmative response to any question, the Licensing Bureau should be contacted before any license is issued, transferred, or renewed. This page is to be fully completed by the applicant with "N/A" inserted in any category that does not apply.

PAGE 6: Asks the applicant to provide information regarding the denial of previous alcoholic beverage license applications, license penalties, and conviction of crimes by interested parties.

PAGE 7: Asks the applicant to provide information about interested parties other than the reported individuals having direct ownership in the licensed entity. Also disclosed on this page is information regarding stockholdings which are pledged or held in escrow, mortgages, or conditional bills of sale on equipment and furnishings, or the sharing of proceeds of liquor sales with parties other than those reported as having an ownership interest in the licensed entity. A separate page seven must be completed for each corporation having an ownership interest in the license, when the licensee is a partnership comprised of one or more corporations, or when a corporation is owned by other corporations.

PAGE 8: Asks the applicant to disclose the following: fees, penalties, interest, or taxes owed the State or municipality for purposes relevant to laws and ordinances related to alcoholic beverages; identification of licenses issued pursuant to the hotel/motel exception (N.J.S.A. 33:1-12.20) and the two license limitation (N.J.S.A. 33:1-12.32); and identification of the transferor and/or the previous location in a person-to-person and/or place-to-place transfer. Also, information is requested about meeting the public notice requirements as it applies to transfers and corporate structure changes.

PAGE 9: Asks the applicant to provide information relating to ownership in New Jersey alcoholic beverage licenses **other** than the subject of the application by the applicant or members of the family of the applicant and the disclosure of any party in interest who would fail to qualify for a license by virtue of age, criminal conviction, or prohibited interests in other licenses.

PAGE 10: Asks the applicant to provide information when it is a corporation, a partnership of corporations, a Limited Liability Corporation, or a not-for-profit entity. A separate page eight must be completed for each corporation having an interest. Information on this page relates to the registry of the entity in New Jersey, the address of the corporate office, and the name and address of the registered agent in New Jersey upon whom legal process can be served in proceedings against the applicant.

PAGE 11: (This page is marked "10A.") Asks the applicant to report all individual parties in interest (including all shareholders, directors, and officers of any corporation having an interest) of an applicant entity: sole proprietor, partnership, corporation. Where there is more than one corporation having an interest in the licensed business, the name of that corporation should be named so that each party in interest can be identified with the particular corporation in which interest is held. Complete information should be provided for each individual in any position itemized on page eleven of the form. When reporting on a corporation's stockholder interests, one hundred percent of the shares should be accounted for. If any stock is not accounted for due to individuals holding less than one percent of the shares, the difference should be explained with an attachment to page eleven describing the number of shares held by individuals owning less than one percent so that all ownership can be explained. When a corporation's shares are publicly traded, only individuals owning one percent or more of the corporation need to be disclosed in addition to the officers and directors. When the applicant is a limited partnership, full disclosure of the ownership of the general partners is required, and a list of the names and addresses of all limited partners should be attached to the application if the full information as requested on page eleven is unobtainable. Where there are numerous corporations in the chain of ownership, the Licensing Bureau should be contacted for instructions regarding persons to be included.

PAGE 12: (This page is marked "11.") Care should be exercised to ensure page twelve is completed in full and signed by the proper person. The signature of the president or vice president of a corporation, the sole proprietor, or all general partners in a partnership **must** be affixed. No other signatures are acceptable. The corporate secretary must sign and seal the document when the applicant is a corporation. The application must be notarized in all cases.

BREW PUB

A brew pub, referred to in the A.B.C. law as a Restricted Brewery License, is a manufacturing license that permits the license holder to brew malt alcoholic beverages in quantities not to exceed 3,000 barrels per license term. N.J.S.A. 33:1-12.1(c). This license can only be issued to a person or entity that identically owns a Plenary Retail Consumption License, which is operated in conjunction with a restaurant regularly and principally used for the purpose of providing meals to its customers and having kitchen and dining room facilities. The restricted brewery licensed premises must be immediately adjoining the retail consumption licensed premises. This type of license allows the holder of the license to manufacture beer and to sell it at its retail licensed premises. No person or entity may hold more than two (2) Restricted Brewery Licenses.

Since this is a manufacturing license, the applicant will also need certain approvals from the TTB and from the New Jersey Department of Environmental Protection and may also require additional approval from the municipality in which it is located.

BRING YOUR OWN BOTTLE ("B.Y.O.B.")

Unless there is a municipal ordinance prohibiting it, customers of an unlicensed restaurant may be permitted by the restaurant to bring their own wine or beer (not liquor). The restaurant owners may supply glasses, ice, etc., but may not impose a cover, corkage, or service charge. The restaurant owner **may not** advertise the fact that wine or beer may be brought onto the premises. The owner may not permit consumption of those products during the hours in which the sale of these products by licensees is prohibited. Persons under the age of 21 years or persons who are visibly or apparently intoxicated must be prohibited from consuming alcohol. (N.J.S.A. 2C:33-27.) In many instances, a non-licensed restaurant will attempt to forge a relationship with a distribution licensee for free delivery of wine and beer to its customers on the licensed premises. This particular action would violate the statute. Therefore, "B.Y.O.B." relationships should be viewed very carefully to ensure compliance.

Finally, it should be noted that violation of the statute constitutes a disorderly persons offense which is tried in municipal court.

CHANGE IN FACTS – AMENDMENT TO APPLICATION

Whenever any change occurs in the facts or information contained in the last application on file, as amended, the applicant must report that change using an application form. (N.J.A.C. 13:2-1.7.) If the change in facts involves a change in corporate stockholdings, see the instructions listed under “CORPORATE STRUCTURE CHANGE.” Any change must be reported within ten (10) days by completing and filing the appropriate page(s) in full with page one marked “amendment” and a fully completed, signed, and notarized page twelve. (N.J.S.A. 33:1-34.)

CONFLICT LICENSE (STATE ISSUED RETAIL LICENSE)

A municipal issuing authority may not **issue** a license to or **transfer** a license to or from any corporation, organization, or association or **renew** a license in which any of its members holds a direct or indirect interest. However, a municipal issuing authority may act upon a Club License in which any of its members holds a direct or indirect interest. No municipal issuing authority may person-to-person or place-to-place transfer a license if any of its members are interested directly or indirectly in the license.

In circumstances where a member of the issuing authority holds an interest in the license, the license action (application, renewal, transfer) must be considered by the Director. The regular application, along with the resolution, is used with the addition of a conflict addendum affixed to the renewal application. The normal license fee is paid to the municipality and a \$200 filing fee is paid to the State. (N.J.S.A. 33:1-20; N.J.A.C. 13:2-4.1 to 4.6.) The municipal clerk or local A.B.C. Board secretary must forward the application and fees to the Division of Alcoholic Beverage Control (Licensing Bureau) for consideration along with the Resolution.

CORPORATE STRUCTURE CHANGE

When a change in the corporate stockholdings of a licensed corporation occurs, that change must be reported to the issuing authority within ten (10) days of the sale of the corporation’s shares. The issuing authority must forward a copy of the corporate structure change to the Licensing Bureau. This action does not constitute a license transfer but is handled as a change in corporate structure.

If the change encompasses **one-third or more** of the total number of issued shares, the change must be reported by the filing of a complete 12-page retail license application form.

If the change constitutes **less than one-third** of the total issued shares, the change is reported by amending the last application on file. The amendment is completed by filing new pages 1, 2, 7, 8 (if applicable), 11, and 12 to reflect the change.

Any new stockholder must be fully qualified as an individual to hold an alcoholic beverage license and must be investigated by the issuing authority. When a new stockholder is reported to acquire an interest of one percent or more of the issued stock in a licensed corporation, the name and address of that individual and the name of the licensed corporation in interest must be published once in a newspaper of local circulation offering the public an opportunity to report any relevant information about the individual or the transaction to the municipal authorities. (N.J.S.A. 33:1-25; N.J.A.C. 13:2.14 through 2.16.)

There is no requirement for the issuing authority to approve a stockholder change by resolution. There is no fee payable to the municipality or the State.

DISCIPLINARY PROCEEDINGS

Responsibility for policing and enforcing the alcoholic beverage control laws of this State (on the retail level) rests with the municipal issuing authority as well as with the Director. (N.J.S.A. 33:1-31.) The municipality may revoke or suspend a license for any reason expressed in N.J.S.A. 33:1-31. (See also N.J.A.C. 13:2-19.1, et seq.)

It is important that particular attention be paid to disciplinary proceedings instituted at the municipal level. Well prepared and documented cases with proper notice often preclude appeals with consequent savings of time and resources.

Adoption of Disciplinary Cases

In certain instances, the municipality may not be able to or may be conflicted from bringing a certain prosecution against the licensee. This could be due to the complexity of the violation (undisclosed interest) or due to a conflict of interest (relative of issuing authority, arrested for underage purchase). In these cases, the issuing authority may wish to refer the matter to the Division of Alcoholic Beverage Control for investigation and ultimate prosecution. In order for the Division to adopt the case, the police chief or director of the municipality should forward a letter to the Division requesting the adoption. In the letter it should indicate that the issuing authority concurs with this decision. When a case is adopted, the police officers or other municipal officials should forward all reports to the Division's Investigative Bureau for review and ultimate determination. Where appropriate, the Division's Enforcement Bureau will communicate with the issuing authority and police department in setting forth the

penalty, however, the ultimate determination of the penalty will be with the Director of the Division of Alcoholic Beverage Control.

Notice

Disciplinary proceedings against the license are commenced by serving the licensee personally (or by certified mail at the licensed premises) with written Notice of the charges at least five (5) days before the actual hearing date. The charges should be prepared and filed by the municipal prosecutor and mailed by the municipal clerk. The written Notice should specifically describe the nature of the charge against the license and advise the license holder that a plea of "guilty," "not guilty," or "non vult" ("non vult" is a plea similar to nolo contendere and carries the implications of a plea of guilty) should be entered in response to the charges. (N.J.S.A. 33:1-31.)

If the licensee is not the owner of the building in which the license is housed, another Notice may be served upon the owner of the building advising him that the licensed premises may, if the license is revoked, and, at the discretion of the municipal issuing authority, be declared to be ineligible to become an alcoholic beverage licensed premises for a period of two years. The owner of the building should receive Notice which contains a copy of the charges served upon the licensee.

Burden of Proof/Evidence

Whenever a hearing is contested, testimony should be taken to establish the charges by a preponderance of the credible evidence. The licensee (as well as the owner of the licensed premises where his involvement is necessary) must be given a full opportunity to present evidence and cross examine witnesses. The hearing must be stenographically or electronically recorded in order to establish a record.

All efforts should be made to obtain the licensee's plea before the hearing date since a guilty or non vult plea would make a formal hearing unnecessary and dissipate the need for the production of evidence or testimony.

The presence of other witnesses or production of other evidence may be compelled by the municipality through subpoena or subpoena duces tecum pursuant to N.J.S.A. 33:1-35.

Hearings

During the hearing, the local issuing authority will act as the trier of fact and sits in a quasi-judicial capacity. The issuing authority should be aware of any conflict of interest between its members and the licensee. The hearing is conducted in an informal manner in which the formal rules regarding the admissibility of

evidence are relaxed. The municipality should conduct the hearing pursuant to the Uniform Administrative Procedure Rules. (N.J.A.C. 1:1, et seq.) The municipal prosecutor should present the charges on behalf of the municipality. The municipal attorney should act as counsel to the issuing authority. The licensee is entitled to be represented by its own legal counsel. At the conclusion of the hearing, the local issuing authority should decide whether the charges have been established by a preponderance of the credible evidence, and if so, what type of penalty should be imposed. The local issuing authority, however, may only suspend or revoke the license and **cannot** impose a monetary penalty. (N.J.S.A. 33:1-31.)

Municipal Findings

Where the issuing authority determines that the charges against the licensee were not established, a resolution should be adopted dismissing the charges.

Where the issuing authority determines that the charges have been established (or a guilty or non vult plea has been entered), a resolution should be adopted making a finding and ordering the appropriate penalty. In 2001, the Division adopted Subchapter 19 which has a schedule of penalties of various violations. (See N.J.A.C. 13:2-19.1 et seq.) While this schedule of penalties only applies to State initiated charges, the Division strongly recommends that where possible, the municipality follow this schedule of penalties together with the procedure set forth. It should be noted that under N.J.A.C. 13:2-19.15 of the regulations, the Director, in reviewing the reasonableness of the penalties imposed by the issuing authority, will judge them in accordance with the penalty schedule and other factors set forth in the record. Therefore, the penalties have a presumption of reasonableness.

The only penalties available to a local issuing authority are suspension or revocation. Where the license is revoked, the holder of the license, including but not limited to the shareholder of a corporation, are automatically ineligible to hold any other license for a period of two years. Upon a second revocation, they are barred forever from holding a license. Notice of the Order of Suspension or Revocation must be personally served on the licensee or sent by certified mail to the licensed premises, and proof of such service should be maintained in the municipal record. In cases where a revocation has been imposed, the owner of the licensed premises must also be properly served. As part or all of its appeals, the licensee may seek to have the suspension converted into a monetary compromise in lieu of the actual suspension or revocation. (N.J.A.C. 33:1-31.) Normally, it is important that the municipality state in its resolution what, if any, position it has on such a conversion. By doing so in the resolution, the municipality puts both the Division and the licensee on notice of its position and avoids confusion. Pursuant to N.J.A.C. 13:2-19.12(c), the regulations set forth a

procedure by which a licensee may petition the Director to accept a monetary compromise offer.

EXTENSION (“EXPANSION”) OR CONTRACTION (“DE-LICENSURE”) OF PREMISES

Whenever a licensee wishes to permanently expand the scope of the licensed premises or delicense a portion of the premises as defined by the last application and sketch of the licensed premises on file and as was approved of by resolution of the issuing authority, an application must be submitted to the issuing authority for determination as a place-to-place transfer (expansion of premises). This transaction is handled in the exact same manner as a place-to-place transfer. (See “LICENSE TRANSFER, Place-to-Place Transfer,” and Appendix “H” Sample Resolution for Place-to-Place Transfer (Extension of Premises).) The area into which the licensee wishes to extend must be contiguous to or adjoin the permanently licensed premises. It is possible for a licensee to expand the licensed premises to encompass more than one building on a property, providing the buildings are physically next to one another and the licensee has exclusive control of all buildings and the surrounding property, including parking areas. In these instances, no public thoroughfare may bisect between the facilities to be included under one license. All locations must be under the control of the same legal entity although different registered trade names may be used for each building. Where an application for such a split license occurs, guidance can be sought from the Counsel to the Director’s Office. (N.J.A.C. 13:2-7.2.)

A voluntary abandonment of all of the licensed premises shall be a change of facts that must be reported to the issuing authority pursuant to N.J.A.C. 13:2-2.7 and 2.14.

EXTENSION OF LICENSE

In the case of death, bankruptcy, receivership, or incompetency of a licensee, or if for any other reason whatsoever, the operation of the business covered by a license passes by operation of law to a person other than the licensee, the licensed business may only be operated after the license has been extended by the municipality. The Director may issue a special permit for a limited time until the municipal determination. (N.J.A.C. 13:2-6.) (See “SPECIAL PERMITS, Extension of License Permit,” and Appendix “J” Application for Special Permit to Operate Under License of a Deceased Person Pending Extension of Such License to the Executor or the Administrator.)

When a license is owned by an individual who dies or goes into bankruptcy, receivership, or similar court supervised insolvency proceeding, the license must be extended to the executor, administrator, trustee, or person duly appointed by the court. The applicant must file a full 12-page application form along with

documented proof of court appointment. (N.J.A.C. 13:2-6.1.) The municipality must approve the extension of license by resolution. (See Appendix “I” Sample Resolution for Extension of License to Executor/Executrix.) There are no fees payable to the municipality or State and public notice is not required.

If the licensee is a corporation or partnership and one of the parties who holds an interest in the license is affected, the licensed business may continue to operate without a special permit. The license application, however, must be amended (a change in corporate structure) to show how the affected party’s interest is being controlled. (N.J.S.A. 33:1-26; N.J.A.C. 13:2-6.)

HEARINGS REGARDING ISSUANCE, RENEWAL, OR TRANSFER OF LICENSE

A Tax Clearance Certificate is a prerequisite to municipal action regarding issuance, renewal, or transfer of a license. (See “TAX CLEARANCE CERTIFICATES.”) Tax Clearance Certificates are issued by the New Jersey Division of Taxation. All inquiries regarding tax clearance should be made to the New Jersey Division of Taxation. (N.J.S.A. 33:1-17.1.)

Hearings

Whenever an application is made for a new license (see “NEW LICENSE ISSUANCE”), a transfer of an existing license, or renewal of an existing license, the applicant must be given an opportunity to present its case or position with respect to the application. If there has been no signed, written objection to the application, however, it may not be necessary to provide a hearing if the issuing authority determines to approve the license application. (N.J.A.C. 13:2-7.7.) Where there is a signed, written objection, a hearing must be scheduled. (N.J.A.C. 13:2-7.5.) The applicant, licensee, and objector must be notified of the date, hour, and place and provided with an opportunity to appear. Such hearings should be electronically recorded and the issuing authority’s decision must be recorded in a written resolution.

Denial of New License or Transfer of Existing License

An appeal procedure is available to a person whose application for a new license (N.J.S.A. 33:1-22) or transfer (N.J.S.A. 33:1-26) has been denied by the local issuing authority. In such cases no temporary extension or Order will be granted pending the outcome of the appeal. The appeal must be initiated by the licensee/applicant within 30 days of receipt of or the mailing of the Notice of the local issuing authority’s action. (See Appendix “A” Procedure to File an Appeal with the Division of Alcoholic Beverage Control.)

Denial of License Renewal

If the renewal of a license is denied (N.J.S.A. 33:1-22) or if special conditions are placed upon the license when it is renewed (N.J.S.A. 33:1-32) and if the licensee objects to such actions, the licensee may appeal to the Director. (See “HEARINGS REGARDING ISSUANCE, RENEWAL, OR TRANSFER OF LICENSE, Imposition of Special Conditions at Renewal.”) This appeal must be initiated within 30 days of the licensee’s receipt of or the mailing of the Notice of such action by the local issuing authority. (See Appendix “A” Procedure to File an Appeal with the Division of Alcoholic Beverage Control.)

After an appeal is properly filed, the Director may extend the privileges of the prior license into the new term pending determination of the appeal. (N.J.A.C. 13:2-17.9.)

Failure to Act Upon Renewal – Transfer or New Issuance

Failure of the local issuing authority to act upon a renewal application within 90 days after the expiration of the previous license term (September 28) (N.J.A.C. 13:2-2.10(b)) or within 45 days of receipt of an application for a new license (N.J.A.C. 13:2-2.10(a)) or within 60 days of receipt of an application for a license transfer (N.J.A.C. 13:2-7.10(d)), may be considered a denial. An appeal to the Director may be filed by the licensee/applicant.

A licensee whose timely filed renewal application is still pending before an issuing authority after June 30 may not operate unless it receives an “Ad Interim Permit” issued by the Division. (See “SPECIAL PERMITS, Ad Interim Permit.”) After 90 days have passed following the expiration of the license term (i.e., July 29 for Seasonal Licenses, September 28 for Retail Licenses), a licensee may file an appeal and request the issuance of an Order extending the license into the new term.

Upon the filing of an appeal, an Order permitting the continued operation of the license may be issued pending determination of the appeal (or the expiration of that license term).

Imposition of Special Conditions at Renewal

No special condition should be imposed without giving the licensee an opportunity to be heard. (See “SPECIAL CONDITIONS.”)

If special conditions are placed upon a license when it is renewed and the licensee objects to such action, the licensee may appeal to the Director. This appeal must be initiated within 30 days of receipt of or the mailing of Notice of the issuing authority’s action. (See “APPEALS – GENERALLY” and Appendix “A” Procedure to File an Appeal with the Division of Alcoholic Beverage Control.)

Upon an appeal being properly filed with the Division concerning imposed special conditions, the Director may “stay” or postpone the effectiveness of newly imposed conditions.

Objections to Renewals, Transfers, or New Issuance

A member of the community, competitor licensee(s), or other person can object to an application before the local issuing authority. After considering the objection, the issuing authority may decide to approve such application. Persons objecting to the action of the municipality may file an appeal with the Division within 30 days of the effective date of the resolution. (See “APPEALS - GENERALLY” and Appendix “A” Procedure to File an Appeal with the Division of Alcoholic Beverage Control.) In such cases, however, no temporary extension or Order will be granted pending the outcome of the appeal. (N.J.S.A. 33:1-24; 1-26; N.J.A.C. 13:2-17.3.)

HOURS/DAYS OF SALE

Division regulation prohibits any retail licensee from selling liquor in original containers (package goods) before 9:00 a.m. or after 10:00 p.m. on any day of the week. There is no A.B.C. regulation limiting hours of sale for beer or wine. Additional limitations on the sale of liquor as well as beer and wine may be imposed by municipal ordinance.

The municipality may, by ordinance, establish the lawful hours and days during which alcoholic beverages may be sold for either on or off premises consumption. In some municipalities, referenda have been held to establish such an ordinance or change one already in place.

By State statute, retail licensees may sell wine and malt beverage products (but no liquor) in original containers (package goods) at any time the sale of alcoholic beverages by the drink is permitted in the municipality. Cities of the first class (Newark and Jersey City) may establish by ordinance separate hours for: (1) sales by type of retail license and (2) sales by such licensees for consumption on the premises and consumption off the premises.

Hours ordinances have traditionally been interpreted by the Division to mean that the presence of any individual other than employees on the licensed premises after the closing hour constitutes a violation. In order for a licensed premise to stay open to the public after closing hours to engage in some other type of business (generally hotel or diner), there must be a specific ordinance allowing that privilege.

INACTIVE LICENSES

An inactive license is a license that is not currently open and operating in a licensed premises. Whenever a licensed business closes and the license continues to be held by the licensee of record, the licensee must place the license in "inactive status." A licensee must submit pages 1, 2, and 11 of the license application within ten (10) days of the license becoming inactive. (N.J.A.C. 13:2-1.7.) Page 2, Question 2.6B, must reflect the last date on which the license was actively used (the "date of inactivity"). The licensee must surrender the license certificate to the issuing authority, and the issuing authority must maintain it as part of the municipal file until the license has been reactivated.

Within ten days (10) of the date the license becomes active, the licensee is required to file an amendment to the application which indicates the date the license became active. This is accomplished by submitting pages 1, 2, and 11 of the license application to the local issuing authority. Page 2, Question 2.6A, must reflect that the license is active and the date the license became active. Upon receipt of the amendment which indicates that the license became active, the issuing authority should return the license certificate to the licensee for display on the licensed premises.

Any time that a licensee ceases business **and** the license privilege will no longer be sited at the business location, the licensee is required to submit an amended application containing a mailing address to which all correspondence concerning the license will be directed. (N.J.A.C. 13:2-7.2(d).) The mailing address is not required to be located within the issuing municipality's boundaries. Once the amendment is filed, the license certificate on file should also be amended to reflect the new address. A license which becomes inactive and is no longer sited at a business premises becomes a "pocket" license. At the time a pocket license is reactivated, the licensee must file an application for a place-to-place transfer of the license so that it may be sited at the new active business address.

The municipality **may** renew an inactive or pocket license for **two license terms** following the date it became inactive (not operating at a place of business). If the license has been inactive for more than two license terms, the licensee must file a petition in affidavit form with the Director (with a copy to the municipality) setting forth what efforts have been made to site the license at an operating place of business and what specific plans are in place for activating the license in the future. The municipality must accept the timely filed application and the fees, however, the license may not be renewed by resolution until a Special Ruling is issued by the Director which authorizes the municipality to renew the license. (N.J.S.A. 33:1-12.39; N.J.A.C. 13:2-43.) (See "CHANGE IN FACTS – AMENDMENT TO APPLICATION" and "LICENSE TRANSFER, Place-to-Place Transfer, Endorsement of License Certificate.")

INVESTIGATIONS

Issuing authorities are primarily responsible for enforcement of laws pertaining to the licenses that are issued within their boundaries. Investigations for new licenses or license transfers should be sufficient to ensure that the applicant is qualified to be licensed and that the source of funds for the purchase of the license, licensed business, and licensed premises are from disclosed and legitimate, qualified sources. (See Appendix "C" ABC Bulletin 2470, Item 2, Notice Regarding Disclosure Policy.) These investigations should be done by the municipal police department.

Particular attention should be directed toward demonstrating no record of conviction for a crime (an indictable offense) involving moral turpitude on the part of any ownership interest or any officer or director of a corporation and that all persons having any ownership interest are eighteen (18) years of age or older. Also, an applicant for a retail license may not have any ownership interest in a manufacturer or wholesale licensed alcoholic beverage business. An applicant may not be a regular police officer and should comply with the "Two License Limitation Law." (See "TWO LICENSE LIMITATION.") Questions regarding the possibility of criminal disqualification should be directed to the Division's Enforcement Bureau for interpretation.

Investigations for the issuance of a new license or transfer must disclose the source of all funds used in the purchase of the license, licensed business, and licensed premises. All funds must be traced to legitimate disclosure and qualified sources. There should be no funds utilized that cannot be traced or that remain in control or ownership of any party not disclosed in the application as having an interest, whether directly or indirectly. If the municipality cannot verify the source of the funds, this is a basis to deny the issuance or transfer of the license. No action should be taken by the issuing authority until these questions are resolved to its satisfaction.

Municipal issuing authorities are empowered by statute to investigate licensees as necessary to ensure compliance with the Alcoholic Beverage Law. Applicants for licenses are required to produce relevant books, documents, records, accounts, and papers and to offer opportunity to inspect premises that are licensed or for which license is sought. Investigations, inspections, and searches of licensed premises may be made without a search warrant by official representatives of the issuing municipality. (N.J.S.A. 33:1-35; N.J.A.C. 13:2-7.10.) The failure to produce these records or documents is a basis to deny the application or suspend the license until the municipality is absolutely satisfied that all documents it has requested have been submitted and all questions pertaining to source of funds have been answered to the satisfaction of the municipality. (See Appendix "C" ABC Bulletin 2470, Item 2, Notice Regarding Disclosure Policy.)

JUDICIAL APPELLATE REVIEW

If a person wishes to further appeal a final administrative decision of the Director, an appeal must be filed with the Appellate Division of the New Jersey Superior Court.

LATE FILING OF RENEWAL APPLICATION

All retail licenses are renewed for one year beginning July 1st and expiring on June 30th. The municipality may accept and renew a retail license if the licensee files a renewal application and the required fees by July 30th, which is 30 days after the commencement of the new license term. (N.J.S.A. 33:1-12.13.) No one may operate a license after July 1st if their license has not been renewed unless the applicant applies for and receives an “Ad Interim” permit.¹ (See “LICENSE RENEWAL” and “SPECIAL PERMITS, Ad Interim Permit.”)

If a retail licensee **files** a renewal application and the required fees between July 31st and September 28th (sixty (60) days after the initial late renewal date), a municipality **may not** act to renew the license unless a Special Ruling is issued by the Director which allows a “new” license to be issued to replace the expired license. (N.J.S.A. 33:1-12.18.) The licensee must file a petition in affidavit form with the Director (with a copy to the municipality) setting forth the circumstances beyond the licensee’s control which caused the failure to timely file the renewal application. The last date for late filing a renewal application, the petition, and the required fees for all retail licenses is September 28th.

If a retail licensee files its renewal application or the petition and the required fees after September 28th, it may be determined that the license has lapsed and ceased to exist for failure to timely renew, unless otherwise ruled by the Director. (N.J.S.A. 33:1-12.18; N.J.A.C. 13:2-42.)

The filing deadline for Summer Seasonal Licenses is May 30th. The last date for late filing for a Summer Seasonal License is July 29th.

Therefore, if a renewal application and the required fees on the petition have not been filed with the municipality by the statutory deadline, there is generally no statutory relief provided for a late filing and the license is considered to be lapsed and no longer in existence.

When an application and fee for renewal is offered to the municipal issuing authority, it should be accepted even though not timely filed. It is possible that a petition is pending or some other action will occur that will permit the municipality

¹ Prior to receiving an “Ad Interim Permit,” the licensee must file the renewal application and all fees with the issuing authority.

to subsequently renew the license. The municipality and the licensee should contact the Counsel to the Director's Office in order to receive instructions regarding filing a request for a Special Ruling pursuant to N.J.S.A. 33:1-12.18. No municipal resolution approving renewal may be passed in these situations without a Special Ruling from the Director. If a licensee fails to file a renewal application on or before September 28th, the licensee has abandoned its license, and the municipality should pass a Resolution stating that the license has lapsed for failure to renew. A copy of the Resolution must be forwarded to the Licensing Bureau.

LICENSE FEES

The municipal fees for retail licenses are fixed by the issuing municipality within the following statutory limits:

Plenary Retail Consumption License – \$250 to \$2500 per year

Plenary Retail Distribution License – \$125 to \$2500 per year

Club License – \$63 to \$188 per year

Limited Retail Distribution License – \$31 to \$63 per year

Seasonal Retail Consumption License – 75% of Plenary Retail Consumption fee

The annual fee for renewal of a Plenary Retail Consumption License and a Plenary Retail Distribution License may not be raised or lowered more than 20% from the fee charged the preceding year.

The fee that must be paid to the municipality with a person-to-person transfer application is 10% of the annual license fee. The fee that must be paid to the municipality with a place-to-place transfer application is 10% of the annual license fee. If there is a combined person-to-person and place-to-place transfer application filed, it must be accompanied by a fee equal to 20% of the annual license fee. These fees are retained by the municipality whether or not the transfer is granted.

In addition, a fee of \$200 payable by check or money order to the Division of Alcoholic Beverage Control must accompany each original application form forwarded from the municipality to the Division for a new license, renewal of a license, or transfer of a license. This fee will be retained by the State whether or not the transaction is approved.

There is no fee collected by the municipality when a licensee reports a change in corporate structure, extension of license, or a license application amendment. (N.J.S.A. 33:1-12; 33:1-25; and 33:1-26.)

LICENSE NUMBER

Every alcoholic beverage license issued in New Jersey is permanently identified by an assigned 12-digit license number. License numbers follow the format: 0000-00-000-000.

The first set of four digits identify the county and municipality in which the license is issued. Digits 1 and 2 are the numbers of the county, assigned alphabetically, and digits 3 and 4 are the numbers assigned alphabetically to the municipality within the county.

The second set of three digits tells the type of license. The numbers will be "31" for a Club License, "32" for a Plenary Retail Consumption License with Broad Package Privileges, "33" for a Plenary Retail Consumption License, "34" or "35" for a Seasonal Retail Consumption License, "36" for Hotel/Motel License, "37" for a Theater Exception License, "38" for a Plenary Retail Consumption License and Restricted Brewery, "43" for a Limited Retail Distribution License, and "44" for a Plenary Retail Distribution License. (See "LICENSE TYPES: RETAIL.")

The third set of digits of three digits indicates the serial number of the license within the municipality. All licenses issued by that municipality, regardless of type, are assigned consecutive numbers beginning with "001."

The fourth and final set of three digits indicates the generation number of the license. Any new license is assigned generation number 001. Thereafter, whenever a transfer or change in corporate structure for which an application must be filed takes place, the generation number is increased by one. The assignment of the increased generation number is accomplished after the application and resolution are received by the Division.

LICENSE RENEWAL

All licenses must be renewed annually, whether or not they are sited at an operating place of business. Retail licenses, other than seasonal, are effective July 1st of each year and are valid until June 30th of the following year. Summer Seasonal Licenses are effective on May 1st of each year and are valid until November 15th of the same year. Winter Seasonal Licenses are to be renewed on November 15th of each year and are valid until May 1st of the following year.

Licenses are renewed on application forms provided by the Division. The renewal application form consists of a one (1) page, multiple part, computer generated form. Periodically, at the Division's request, licensees are required to complete a full twelve (12) page application for renewal. In cases where a licensee has misplaced the preprinted renewal materials, municipalities must require the submission of a completed 12-page application form in order to renew

the license. If at any time the validity of facts concerning a license are in doubt, municipalities or the Division itself may require a licensee to file a complete full application for renewal. A licensee may at any time choose to utilize the full 12-page application form rather than the short renewal forms when renewing a license.

Applications for renewal, including the renewal fees, must be filed by the licensee with the municipality sufficiently in advance of the renewal date so that the municipality may pass a renewal resolution before the expiration date. The renewal resolution must specifically include any special conditions that are to be applied to the license for the applicable license term. (See "SPECIAL CONDITIONS.") (N.J.S.A. 33:1-32.) Special conditions that are not appealed by the licensee become effective once the Resolution is enacted.

If a renewal resolution is not passed to renew a license in time to be effective for the new license term or if the licensee has filed the renewal application and paid the renewal fees too late for a resolution to be passed for timely renewal, the licensed business must cease the sale of alcoholic beverages until the license is renewed by resolution. The licensee may request and pay the fee for the Division to issue an "Ad Interim" permit that will allow the business to operate until the issuing authority can pass the renewal resolution. Such permit merely maintains the status quo of the license as of the last day of the expiring term until the issuing authority acts on the renewal application. (See "SPECIAL PERMITS, Ad Interim Permit.")

All retail licensees must obtain a Tax Clearance Certificate from the New Jersey Division of Taxation before the license can be renewed. A municipal issuing authority **may not consider** a renewal application unless a Tax Clearance Certificate is received. No Ad Interim Permits will be issued if the licensee cannot provide the Division with a Tax Clearance Certificate. (See "TAX CLEARANCE CERTIFICATES.")

The original copy of the application, fully completed with a proper original signature which has been notarized and signed by the municipal clerk or A.B.C. Board secretary, should be sent to the Division at the time of filing together with the \$200 State filing fee. The application will be retained in a pending status awaiting receipt of the municipal resolution. (N.J.S.A. 33:1-26 and 33:1-12.) (See also "INACTIVE LICENSES," "LICENSE FEES," "APPEALS – GENERALLY," and "LATE FILING OF RENEWAL APPLICATION.")

LICENSE TRANSFER

A license may be transferred from one person or entity to another or from one place to another, or both. A person-to-person transfer is necessary whenever a license is to transfer from one person or entity to another. For example, if a

license is held by an individual owner in his/her name (sole proprietor) and that individual forms a corporation but owns 100% of the shares, a person-to-person transfer is required because the corporation constitutes a different legal entity than the one originally holding the license. When a license is to be transferred from a sole proprietor to a partnership, a partnership to a corporation, from one corporation to another, or any other such change of entity, a transfer is required. A change of shareholdings in a corporation does not constitute a transfer since the corporate entity holding the license remains the same. (See "CORPORATE STRUCTURE CHANGE" and Appendix "B" Liquor License Transfer Guide.)

The current licensee (transferor) must obtain a Tax Clearance Certificate from the New Jersey Division of Taxation before the license can be transferred. A municipal issuing authority **may not consider** a person-to-person transfer application unless it receives a Tax Clearance Certificate. (See "TAX CLEARANCE CERTIFICATES.")

The resolution approving a transfer of a license must clearly state the effective date of the transfer in the text of the resolution. The text of the resolution should be conclusive and **may not be** contingent upon future events. A license transfer cannot be tied to the sale of real estate or a business and cannot be negated if a business deal does not materialize. Once approved, a license transfer cannot be reversed. The only way to correct an improperly transferred license is through a new transfer procedure. It is the responsibility of the applicant to present the transfer application to the municipality within a time frame that meets his or its particular business needs and to monitor the processing of the matter accordingly. (See "RESOLUTIONS.")

Once a transfer resolution becomes effective, it may not be rescinded. (See "RESOLUTIONS" and Appendix "E" ABC Bulletin 2473, Item 3, Notice to All Municipalities – Form of Resolution Approving Transfers.) The municipal issuing authority may not disapprove an application for transfer without first affording the applicant an opportunity to be heard and providing the applicant at least five (5) days advance notice of such hearing. All hearings must be electronically or stenographically recorded. In every action adverse to any applicant or objector, the issuing authority must state the reasons for the determination. (N.J.S.A. 33:1-26; N.J.A.C. 13:2-7.) (See "APPEALS – GENERALLY.")

Person-to-Person Transfer

A request for a person-to-person transfer is initiated by the transferee, that is, the entity that is seeking to acquire the license. This is done by the filing of a complete 12-page application form with the municipality together with the required filing fees. Until a transfer has been approved by resolution, only the current licensee may operate the licensed business.

After filing, or at the same time the application is filed, the transferee must insert a public notice in a newspaper of local circulation which states the name of the transferee; the trade name, if any; the address of the premises; the type of license and the license number; the name of the transferor; the current address of the license if sited at a business address; the proposed address if a place-to-place transfer; and a listing of all the names and residence addresses of all officers, directors, and stockholders holding more than 1% of the corporate stock when the transferee is a corporation. If the transferee is a partnership, the public notice must list the name of the partnership and the names and addresses of all partners or, in the case of a limited partnership, the names and addresses of all general partners. The public notice must conclude by stating that objections, if any, should be made immediately in writing to the municipal clerk or A.B.C. Board secretary, whichever applies, giving the name and title of that person and the address and telephone number where objections can be registered. Public notice must appear in the newspaper twice, one week apart, and the municipality may not issue a new license or transfer a license until five (5) business days after the second notice has been published and should not act later than fourteen (14) days thereafter. (N.J.A.C. 13:2-7.6.)

The municipality may, for good cause, in the exercise of sound and fair discretion, fix a date for a hearing later than said fourteen (14) days and may adjourn the hearing upon notification to all parties. (N.J.A.C. 13:2-7.6.) The prescribed format for such notice is provided in N.J.A.C. 13:2-7.4.

In addition to filing the application, fee, and proof that public notice appeared in the newspaper, the transferee must submit a statement of consent to transfer from the transferor (the holder of the license to be transferred). N.J.S.A. 33:1-26 requires that an issuing authority only consider a transfer application if the application contains “the consent in writing of the licensee to the transfer.” The issuing authority has no jurisdiction to consider a transfer application without a consent to transfer. (See Appendix “D” Written Consent to Transfer Form.)

A written consent to transfer is a dated and sworn document by the current licensee granting unequivocal consent to the issuing authority to approve a present transfer of the license to a named party. The consent to transfer should be given freely and voluntarily by the licensee and cannot be assigned to another. The consent to transfer a liquor license upon the occurrence of a default in an agreement is not valid. (See Appendix “D” Written Consent to Transfer Form.)

No person-to-person transfer application can be approved unless the municipality approves by resolution that the submitted application form is complete in all respects. In order to approve the transfer by resolution, it must be found that the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, and pertinent local ordinances and conditions consistent with Title 33, and that the

applicant has disclosed and the authority has reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business and premises. (See Appendix “F” Sample Resolution for Person-to-Person Transfer.) Any investigation by the issuing authority should include fingerprinting, a criminal background check, and financial disclosure documentation. (N.J.A.C. 13:2-7.7.) (See Appendix “C” ABC Bulletin 2470, Item 2, Notice Regarding Disclosure Policy.)

Whenever a person-to-person transfer application is submitted, the applicant must also submit an application for a “Bulk Sale Permit,” even if no inventory is being transferred. If the transferor is selling alcoholic beverage inventory to the transferee, it is necessary for the transferee to pay an additional \$75 fee to the Division by check or money order for the Bulk Sale Permit. If the transferee is not purchasing the inventory, the Bulk Sale Permit application should be submitted without the fee.

The following should be forwarded to the Division immediately when they are complete and accurate by the municipality: the original transfer application, \$200 State filing fee, application for Bulk Sale Permit, and \$75 fee, if required. The resolution approving the transfer should be forwarded to the Licensing Bureau as soon as enacted by the issuing authority. (See “SPECIAL PERMITS, Bulk Sale Permit,” “RESOLUTIONS,” and Appendix “L” Application for Bulk Sale Permit.)

Endorsement of License Certificate

Following **approval of a person-to-person transfer**, the municipal clerk/A.B.C. Board secretary shall affix an endorsement upon the face of the **existing** license certificate as follows:

The license, subject to all of its terms and conditions, is hereby transferred, effective [date], to [name of transferee] for premises located at [address of premises or notation “no premises” and insert mailing address].

Date of Endorsement:

Name of Issuing Authority

BY: Name of Clerk/Secretary

The endorsed license certificate should then be displayed on the premises of the new active licensee, or if the license is inactive, maintained in the municipal files.

Place-to-Place Transfer

Whenever a licensee wishes to change the place where the license is sited (business location) or to site the license at an operating place of business

following a period of inactivity when the license has been “pocketed” (not sited at a business location), an application for a place-to-place transfer must be submitted to the municipal issuing authority. The same procedures apply as were outlined in “Person-to-Person Transfer” except the resolution must state the former business address (mailing address in the case of a “pocket license”) and the new approved location. Particular attention needs to be given to distance between premises ordinances, if any, and the statutory prohibition of siting a license within 200 feet of any church or school without a waiver, as mandated in N.J.S.A. 33:1-76. (See “RESOLUTIONS” and Appendix “G” Sample Resolution for Place-to-Place Transfer.)

As in the case of all transfers, the original transfer application and the \$200 State filing fee should be forwarded immediately to the Division when considered complete and accurate by the municipality. The resolution must be forwarded to the Licensing Bureau when enacted by the issuing authority.

A municipality may approve a place-to-place transfer of a license to a location where a building has not yet been constructed as long as plans for the facility have been submitted to the municipal clerk or the local A.B.C Board secretary. Generally, two licenses may not be sited on the same premises. If an application is presented that would place more than one license on the premises, direction should be sought from the Division. (N.J.S.A. 33:1-26.)

If an applicant submits a request for a person-to-person and place-to-place transfer on one application form, the denial of either component constitutes a denial of the whole request. (N.J.A.C. 13:2-7.14.)

After a place-to-place transfer is approved by municipal resolution, the licensee must remove any existing alcoholic beverage inventory from the former location within five (5) days of the effective date of the transfer. If the inventory is to be stored on the premises that is no longer under license or if some other temporary storage accommodation is required, the licensee must apply to the Division for a Temporary Storage Permit. (See “SPECIAL PERMITS, Temporary Storage Permit.”) Alcoholic beverages may be stored in a public warehouse that holds a valid Public Warehouse License issued by the Division, providing that the holder of the license is not also the holder of a New Jersey wholesale license. (N.J.A.C. 13:2-23.21.)

Endorsement of License Certificate

Following **approval of a place-to-place transfer**, the municipal clerk/A.B.C. Board secretary shall affix an endorsement on the existing license certificate as follows:

The license, subject to all of its terms and conditions is hereby transferred, effective **[date]**, from **[former location]** to **[new location]**.

Date of Endorsement:

Name of Issuing Authority

BY: Name of Clerk/Secretary

The endorsed license certificate should then be displayed on the premises of the new active licensee, or if the license is inactive, maintained in the municipal files.

LICENSE TYPES: RETAIL

All retail licenses are “Class C” licenses. The license types are set forth in N.J.S.A. 33:1-12, which establishes the privileges and restrictions for the different types of licenses. Retail licenses are issued by the municipality in which the business is located, and all actions (applications, renewals, transfers) involving retail licenses are determined by the municipal governing body except when a member of the governing body has an interest in the licensed business. If a member of a governing body has an interest in the license, all actions must be processed through the State Division of Alcoholic Beverage Control and approved by the Director. (N.J.S.A. 33:1-20.) (See “CONFLICT LICENSE (STATE ISSUED RETAIL LICENSE).”) Licenses maintain the statutory privileges as originally issued and may not change from one type to another. The types of retail licenses are:

Club License (“31”)

This license may only be issued to a non-profit organization that has a minimum of sixty (60) voting members and has been in active operation and is in possession of its clubhouse for three (3) continuous years. Exceptions to this eligibility requirement may be made for a chapter or member club of a national or State organization. A request for a waiver by the applicant must be forwarded to the Division of Alcoholic Beverage Control and a Special Ruling must precede the issuance of a license. There is no State population cap governing the number of Club Licenses that may be issued, however, the municipality may limit the number by ordinance. The license only permits the sale of alcoholic beverages in open containers for immediate consumption on the licensed premises to bona fide club members and their guests, up to nine (9) in number. The license does not permit the sale of package goods. (N.J.A.C. 13:2-8.1, et seq.)

Plenary Retail Consumption License with Broad Package Privilege (“32”)

This license is a Plenary Retail Consumption License, except the sale of package goods is not restricted to the principal public barroom. This “broad package privilege” was added to certain Plenary Retail Consumption Licenses in 1948, and those licenses continue to retain that privilege. These licenses are counted with the Plenary Retail Consumption Licenses for the purposes of the population cap limitation. Also, the fees are the same as a Plenary Retail Consumption License. (N.J.S.A. 33:1-12.23; N.J.A.C. 13:2-35.) This license is no longer being issued although an existing one may be renewed or transferred.

Plenary Retail Consumption License (“33”)

This license permits the sale of alcoholic beverages for consumption on the licensed premises by the glass or other open container. The license also allows the sale of package goods for consumption off the licensed premises. These sales of package goods, however, may only take place from the principal public barroom, and the package goods may only be displayed for sale on the premises’ perimeter walls or behind the bar, unless a floor plan was approved by the Director prior to the late 1970’s and that floor plan is available for inspection. (N.J.A.C. 13:2-35.1, et seq.) When this license is granted, no other commercial activity may take place on the licensed premises except for certain activities such as the operation of a restaurant, hotel, or bowling establishment or the sale of snack or certain other items specifically mentioned in the statute. (N.J.S.A. 33:1-12.)

Seasonal Retail Consumption License (“34” or “35”)

This license allows all the privileges of a Plenary Retail Consumption License but is issued for the summer season extending from May 1 through November 14. The same restrictions that apply to a Plenary Retail Consumption License also apply to this Seasonal License, and these licenses count in the total number limited by population. The statute also authorizes a Winter Seasonal License, from November 15 to April 30, although none are currently issued anywhere in the State. (N.J.S.A. 33:1-12.)

Hotel/Motel License (“36”)

This license may be issued to a person or business entity who operates a hotel or motel containing at least 100 guest sleeping rooms. A municipality may issue this license even though a new consumption license cannot be issued in the municipality due to the limitation on licenses by population. (N.J.S.A. 33:1-12.20.) The municipal Resolution must state that the license was issued as a hotel exception. The Resolution must also contain a special condition which states that the license is issued as a hotel exception license for a facility

containing 100 or more sleeping rooms and may only be used in connection with a hotel or motel.

Prior to January 1, 1969, the minimum number of sleeping rooms required by the statute was 50 sleeping rooms. Some licenses were issued under this criteria and should annually be renewed with a special condition noting the license was issued as a hotel exception with 50 sleeping rooms required.

Plenary Retail Consumption License (Theater Exception) (“37”)

This license may be issued by a local issuing authority to a non-profit corporation which conducts musical or theatrical performances or concerts on a premises with a seating capacity of 1,000 persons or more. The license authorizes the sale of alcoholic beverages in open containers for consumption on the licensed premises only during performances, the two (2) hours immediately preceding, and the two (2) hours immediately following performances. The issuance of this license is subject to the prior written approval of the Director of the Division of Alcoholic Beverage Control. A license issued under this exception does not count when computing the number of licenses authorized by population to be issued by the municipality. (N.J.S.A. 33:1-19.7; N.J.A.C. 13:2-41, et seq.; and ABC Bulletin 2443, Item 2.)

Limited Retail Distribution License (“43”)

This license permits only the sale of warm beer and other malt alcoholic beverages in quantities of not less than 72 fluid ounces (equal to a “six-pack”) in original containers for consumption off the licensed premises. This license is no longer being issued although an existing one may be renewed or transferred. Moreover, this license must be located on premises operated and conducted by the licensee primarily as a food store where groceries are sold. (N.J.S.A. 33:1-12.)

Plenary Retail Distribution License (“44”)

This license permits only the sale of package goods for consumption off the licensed premises. Other mercantile or commercial activity is permitted on the licensed premises unless prohibited by municipal ordinance. (N.J.S.A. 33:1-12.)

LIEN ON LICENSE

Under no circumstances may a license, or rights thereunder, be deemed property subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except as expressly provided by the Alcoholic Beverage Control Act (Title 33). Any change in ownership of a license must be approved by the issuing authority through the

prescribed procedures. A license transfer is independent of the sale of a business or property. If a license transfer is approved by resolution and the sale of property or business did not occur, the license may only revert back to the original licensee through another person-to-person transfer. (See "LICENSE TRANSFER.") If a licensee's assets are sold as part of a bankruptcy proceeding, the license must be transferred to an entity by a person-to-person transfer. (N.J.S.A. 33:1-25; 1-26.)

The right to sell a license can be attached when the Internal Revenue Service serves a Notice of Lien and Levy for non-payment of federal taxes or the New Jersey Division of Taxation serves a Notice of Seizure for non-payment of State taxes. When these taxing authorities serve such notices upon a licensee, copies are served upon the issuing authority and the Division of Alcoholic Beverage Control. The Notice prohibits the licensee from transferring its interest in the license to another party. This prohibition on the transfer remains in effect until the Notice is released by the Internal Revenue Service or the New Jersey Division of Taxation. The licensee may continue to operate the licensed business after service of the lien or levy or the New Jersey Notice of Seizure. If the actual license certificate was seized, a copy identified as a duplicate should be made available to the licensee by the municipality for public display on the licensed premises.

The law then permits the Internal Revenue Service or the Division of Taxation agencies to offer the license for sale at public auction. The successful bidder will receive the consent to apply for a transfer of the license. Thereafter, the municipal issuing authority may consider the transfer of the license.

MUNICIPALITIES WITHOUT POLICE DEPARTMENTS

Background investigations for alcoholic beverage licenses are the responsibility of the affected municipality. Typically, this investigation is conducted by the local ABC Board, municipal police force or through a joint agreement with another municipality. Municipalities without local police departments should contact the Barracks Commander of the State Police Unit providing police/law enforcement services for the qualifying investigations of all plenary retail licenses or contract with another municipality's police/law enforcement service to conduct the investigation. A copy of the application, \$200 filing fee, bulk sale application permit and fee, if applicable, should still be sent to the Division of Alcoholic Beverage Control at the above-captioned address for record purposes.

The investigating police department shall report the results of their investigation directly to the municipality. There will no longer be any involvement of the Division of Alcoholic Beverage Control. Therefore, if a background investigation is conducted by the State Police, the municipality should give the State Police

the municipal contact person and, as with other enforcement matters, deal directly with them.

On the other hand, if the license is considered a **conflict license** pursuant to N.J.S.A. 33:1-20 and N.J.A.C. 13:2-4.1 to 4.6, it should be sent to the Division of Alcoholic Beverage Control for the appropriate qualifying investigation. Upon completion of the qualifying investigation the municipality will be notified in writing as to the outcome of the Division's investigation for review with their governing body.

NEW LICENSE ISSUANCE

Whenever a municipality is authorized to issue a new license due to an increase in its population based on the last federal census or an independent census performed by the New Jersey Department of Labor, the municipal authority may determine to issue a new license. (See "POPULATION CAP: NEW LICENSES.") The new license may be issued pursuant to a bidding procedure or under a traditional non-bidding method.

The issuance of a new license is described in detail in N.J.S.A. 33:1-19.3 through N.J.S.A. 33:1-19.5 and ABC Bulletin 2457, Item 6. Whatever means are employed to choose a successful applicant, the municipality must ensure that the process is fair, equitable, and defensible in case of appeal. (N.J.S.A. 33:1-12.)

OPEN PUBLIC MEETINGS ACT

The purpose of the "Open Public Meetings Act" (N.J.S.A. 10:4-6) is to ensure the right of citizens to have adequate advance notice of and the right to attend meetings of public bodies at which any business affecting the public is discussed or acted upon in any way except in those circumstances where the public interest would be endangered or the personal privacy or rights of individuals would be endangered. The "Sunshine Law" is the legislative mechanism established to ensure that those rights are implemented and guaranteed to members of the public.

The New Jersey Open Public Meetings Act addresses three major areas. The first area deals with the notice of meetings of public bodies. The second area concerns the conduct of meetings of public bodies and deals with instances in which closed sessions are permitted. The third area concerns the affect of violations of the Open Public Meetings Act upon the validity of actions taken by public bodies and defines the penalty to be charged to persons who knowingly violate the act.

Issuing authorities should consult with their municipal counsel to ensure

that any hearing of alcoholic beverage licensing matters is conducted in accordance with the requirements of the Open Public Meetings Act.

ORDINANCES

The governing board or body of each municipality may, by ordinance, limit the number of licenses to sell alcoholic beverages at retail to fewer than the number limited by population. Such ordinance shall continue in full force and effect until repealed, amended, or otherwise altered by another ordinance. The municipality may also, by ordinance, limit the hours of sale, prohibit sale of alcohol entirely or on Sunday, and subject to the approval of the Director, regulate the conduct of any business licensed to sell alcoholic beverages at retail and the nature and condition of the premises upon which such business is to be conducted. (See "HOURS/DAYS OF SALE.")

The governing board or body of each municipality may enact by ordinance that no more than one retail license shall be granted to any person in the municipality. However, nothing in it shall operate to disqualify a guardian, executor, administrator, trustee, receiver, or any other fiduciary or court officer from obtaining or holding more than one license in different official capacities. (N.J.S.A. 33:1-40.)

In reviewing ordinances, the Director must make a determination only on whether the provisions set forth are cognizable and derivable from the concepts articulated in the Alcoholic Beverage Control Act (Title 33). Although an ordinance may be valid as an exercise of some other municipal power related to the health, safety, and welfare of the municipality, an ordinance will not be approved by the Director. Violations of an ordinance will not allow suspension, revocation, or non-renewal of the license if the ordinance provisions are not authorized by the Alcoholic Beverage Control Act.

The ordinance shall be advertised, discussed, and adopted in compliance with all appropriate provisions of law. The Division, however, in approving an ordinance, will advise the municipality of potential problems which should be reviewed by the governing body. The Director reviews ordinances on an ex parte basis. Thus, any opinion provided is not to be presumed as a final determination on the merits of any ordinance by the Director.

POLICE OFFICER EMPLOYMENT

A licensee may not employ a regular police officer who is a member of the local police department who has regular duties and responsibilities in the municipality where the license is located. A licensee may, however, employ a regular police officer who does not have duties in that community, but not for more than 24

hours in any week. The officer may not possess his firearm or wear his uniform if he is involved in the actual sale of alcoholic beverages. The officer also shall not wear any badge or insignia indicating he or she is a police officer. This prohibition does not apply when the police officer is providing security and is not involved in the sale, service, or delivery of alcoholic beverages. The officer must also obtain the consent of his/her police chief and must also give notice of such off-duty employment to the chief of police in the municipality where the licensed premises is located. The licensee must also obtain permission by the Director to employ an officer by sending copies of consent and notice to the chiefs of police and identifying the period and type of employment. A letter of permission for such employment will be furnished to the licensee by the Director of the Division of Alcoholic Beverage Control. Peace officers employed by the Department of Corrections may not be employed by an entity licensed to sell, serve, or manufacture alcoholic beverages.

In situations when a licensee has need for police officers for crowd control, traffic control, and/or security for large sums of money, the municipality may assign regular police officers for those purposes. The municipality must establish a written policy which requires the licensee to pay the municipality for the police services provided. Under no circumstances may a licensee directly hire regular police officers. (N.J.S.A. 33:1-26.1; N.J.A.C. 13:2-23.31.)

POPULATION CAP: NEW LICENSES

The issuance of new Plenary Retail Consumption Licenses (including Seasonal Licenses) and Plenary Retail Distribution Licenses is restricted by population. No new Plenary Retail Consumption License or Seasonal Retail Consumption License may be issued in a municipality unless and until the combined total number of such licenses existing in the municipality is fewer than one for each 3000 of its population as shown by the last preceding federal census, and no Plenary Retail Distribution License may be issued in a municipality unless and until the number of such licenses existing in a municipality is fewer than one for each 7500 of its population as shown by the last preceding federal census. (See "NEW LICENSE ISSUANCE" and "LICENSE TYPES: RETAIL.") (N.J.S.A. 33:1-12.14.)

REFERENDA

A question for the ballot shall be prepared in accordance with procedures outlined in the Alcoholic Beverage Control Law to vote on the sale of alcoholic beverages within that municipality whenever a petition is signed by at least 15% of the number of voters of any municipality who cast votes in the last general election held for the election of all members of the General Assembly. The results of such a vote become operative thirty (30) days after the date of the vote.

No further referendum may be held on the same question for five (5) years.

A referendum which prohibits the issuance of retail licenses does not preclude that municipality from issuing a Club License to a local chapter of a national organization or to a non-profit organization. A referendum may be held to establish or change the hours of sale. (N.J.S.A. 33:1-44; 1-45; 1-45.1; 1-46.1; 1-47.1.)

RESOLUTIONS

Resolutions are the means by which the municipality acts to transfer, issue, or renew a license to impose disciplinary sanctions or enact special conditions. Since the action of the municipality affects important rights and privileges, the resolution needs to be definite, concise, and establish a specific date on which it becomes effective.

Resolutions should not be drafted if they become effective only upon the happening of a condition in the future, such as receipt of a satisfactory fingerprint check or the closing of title to real estate since conditional approvals may cause uncertainty as to when the resolution becomes effective and who is authorized to exercise the licensed privileges. Resolutions may not be rescinded once they have become effective. (See Appendix “E” ABC Bulletin 2473, Item 3, Notice to Municipalities – Form of Resolution Approving Transfers.)

The Appendix contains sample resolutions to serve as a general guide for issuing authorities. In each instance, the issuing authority has specifically identified and affirmed the qualifications or grounds upon which its action(s) are based. (See Appendix “F” Sample Resolution for Person-to-Person Transfer, Appendix “G” Sample Resolution for Place-to-Place Transfer, Appendix “H” Sample Resolution for Place-to-Place Transfer (Extension of Premises), and Appendix “I” Sample Resolution for Extension of License to Executor/Executrix.)

SPECIAL CONDITIONS

A municipal issuing authority may, by resolution, impose any condition at the time of issuance, renewal, or transfer of any license deemed necessary and proper to accomplish the objectives of N.J.S.A. Title 33. Conditions **may not** be imposed for matters not directly related to alcoholic beverage control, such as zoning matters, or to compel payment of property taxes. The implementing resolution is subject to the approval of the Director, which may be given, nunc pro tunc, at the time that an appeal from a violation of the conditions is heard. Special conditions should be attached to the implementing Resolution and forwarded to the Licensing Bureau for review. Licenses may be subject to disciplinary action for

violation of special conditions. (N.J.S.A. 33:1-32.) To remain effective, special conditions must be re-imposed at time of transfer or renewal.

SPECIAL PERMITS

There are several permits issued regularly by the Division which require submission of application forms or petitions endorsed by the municipal clerk and the chief of police of the municipality in which the event is to be held. The most frequently issued permits are described in some detail below.

Ad Interim Permit

When a license is not renewed by the issuing authority by resolution by June 30th and the licensee has timely filed the renewal application and paid the municipal and State fees to the municipal issuing authority, the applicant may submit an application to the Division for an "Ad Interim Permit" that will allow the licensed business to operate until the municipal authority can meet and renew the license by resolution. The application should be accompanied by a letter from the municipal clerk or secretary of the local A.B.C. Board indicating that the application and fees have been filed and that there is no objection to issuance of the temporary permit. It is probable, however, that the permit will be issued even if endorsement by the municipality is withheld since the licensee should have the benefit of administrative due process before being required to discontinue business. The fee for this permit is \$75 plus \$5 a day. These fees are forwarded to the State Treasury and not the municipality. (N.J.S.A. 33:1-74.) The licensee must have obtained tax clearance from the Division of Taxation before an Ad Interim Permit will be issued. (See "TAX CLEARANCE CERTIFICATES.")

Bulk Sale Permit

When a person-to-person license transfer involves the purchase of an existing alcoholic beverage inventory by the new licensee, an application for a Bulk Sale Permit must be submitted to the municipal clerk at the time of the initial application for transfer. This is required because a retail licensee cannot usually purchase alcohol from another licensee. This permit allows the actual title of ownership of the alcoholic beverage inventory to be turned over to the new licensee and takes the place of existing invoices made out to the previous owner. The completed application and \$75 filing fee should be submitted by the municipal clerk when other transfer documents and fees are forwarded to the Division. This permit is issued after the license is transferred. (N.J.S.A. 33:1-74; N.J.A.C. 13:2-23.12.) (See Appendix "L" Application for Bulk Sale Permit.)

Catering Permit

Whenever a retail licensee wishes to sell alcoholic beverages in open containers

off its licensed premises, an application must be submitted for a permit authorizing such sales. The application form must be endorsed by the municipal clerk or secretary of the local A.B.C. Board and chief of police in the municipality where the sale will take place. The fee for this permit is \$100 per day. Only 25 permits may be issued for any one location in a calendar year. (N.J.S.A. 33:1-74.) A Catering Permit may not be issued to a retail distribution licensee. (See Appendix "M" Application for Catering Permit.)

Extension of Premises Permit

A licensee who wishes to hold an event in an area that is off the licensed premises but on property that is contiguous to it may apply for an Extension of Premises Permit. An application includes information regarding the nature of the event, the location, and justification for the permit. It must be accompanied by a sketch that depicts the extended area as it adjoins the licensed premises. The application form must be endorsed by the municipal clerk or secretary of the local A.B.C. Board and the chief of police of the municipality in which the license is issued. The fee for this permit is \$75 per day. (N.J.S.A. 33:1-74.) (See "EXTENSION ("EXPANSION") OR CONTRACTION ("DE-LICENSURE") OF PREMISES" and Appendix "K" Petition to Extend Licensed Premises.)

Extension of License Permit

This permit is obtained upon the death of a licensee by an executor or administrator of an estate, a trustee, or receiver in bankruptcy. This permit allows the continued operation of the licensed business pending formal extension of the license by municipal resolution of the issuing authority. Proof of the applicant's identity and status must be established before the permit is issued. The fee for this permit is \$50. (N.J.S.A. 33:1-74; N.J.A.C. 13:2-6.1, et seq.) (See "EXTENSION OF LICENSE" and Appendix "J" Application for Special Permit to Operate Under License of a Deceased Person Pending Extension of Such License to the Executor or the Administrator.)

Social Affair Permit

This permit is issued to a bona fide, non-profit organization that wishes to hold a fund raising event that encompasses the sale of alcoholic beverages. The monies that accrue should be used for civic, religious, educational, or other purposes that are not for personal or profit making corporate gain. This permit is frequently issued to authorize the sale and service of alcoholic beverages at carnivals, church festivals, bazaars, parades, etc. No organization may receive more than 12 one-day permits in any calendar year. No more than 25 permits may be issued at one location in a calendar year. The permittee may sell alcoholic beverages only in open containers for consumption on the premises at which the event is to be held and which is covered by the permit issued. The State fee for this permit is \$100 for a one-day permit issued to a civic, religious,

or educational organization and \$150 for a one-day permit issued to any other non-profit organization. Organizations making application for the first time will be required to submit proof of bona fide non-profit status. The application must be endorsed by the municipal police chief and clerk or secretary of the local A.B.C. Board, as well as by the owner of the property on which the event is to be held, prior to its submission to the Division. (N.J.S.A. 33:1-74; N.J.A.C. 13:2-5.1.) (See Appendix “N” Application for Special Permit for Social Affair.)

Special Permit for a Golf Facility

The Division of Alcoholic Beverage Control has adopted a new rule which would provide for the issuance of a Special Permit for a Golf Facility. This permit authorizes permitted golf facilities to sell open containers of alcoholic beverages for immediate consumption to members, guests of members, and guests of the facility. However, the holder of a Special Permit for a Golf Facility may serve alcoholic beverages during a social gathering only if such social gathering is directly related to playing golf on the golf course the same day. This permit specifically does not authorize the service of alcoholic beverages at non-golf related social gatherings, such as holiday parties, weddings, birthday parties, or family religious events.

The new rule, N.J.A.C. 13:2-5.3, sets out a description of the Special Permit for a Golf Facility and the application process therefore. Application for this permit may be made to the Director upon the submission of the requisite fee of \$2000.00 and documentation including: a letter detailing the manner of proposed operation under the permit; a plan or sketch of the premises to be used in accordance with the permit; copies of the applicant's certificate of incorporation or charter, if applicable; evidence of the filing of a copy of the application with the municipal issuing authority where the facility is located; an affidavit of publication by a newspaper of a notice of application; and any other information or documents required by the Director. The new rule provides that upon the timely filing of a signed written objection to the issuance of a Special Permit for a Golf Facility, the Director will afford a hearing to all parties and notify them of the date, hour, and place thereof. The Director may, in his sole discretion, issue a temporary special permit pending the hearing.

Temporary Storage Permit

When a licensee requires additional storage space due to fire, power failure, remodeling, etc., an application for a permit to utilize a temporary storage facility may be submitted to the Division indicating the location of the temporary facility, the length of time the facility will be utilized, and the justification for the permit. The application form must be endorsed by the municipal clerk or the A.B.C. Board secretary and chief of police in the town in which the alcohol is to be stored. The State fee for this permit is \$25 plus \$2 per day. (N.J.A.C. 13:2-23.21.) (See Appendix “O” Application for Temporary Storage Permit.)

STATE ISSUED LICENSES AND PERMITS

Annual State Permit

The sale of alcoholic beverages in any public building belonging to or under the control of the State, county, or municipality requires the issuance of a Special Concessionaire Permit by the Division. This State permit is issued to a private vendor who has a contract with the controlling unit of government to provide alcoholic beverage services to the public. This State permit allows the service of alcoholic beverages for consumption on the licensed premises and is normally issued to facilities such as municipally owned golf courses, marinas, and sports arenas. A permittee is not eligible for catering permits and may not exercise its sales privilege beyond the scope of the government owned facility. Application for this permit is made directly to the Division. The applicant is required to publish public notice twice in a newspaper circulated in the municipality where the licensed premises will be sited. (N.J.A.C. 13:2-5.2.) In the event that a municipality or individual objects to the approval of such a request, written objections may be submitted to the Director. (N.J.S.A. 33:1-42.)

Plenary Retail Transit Licenses

The Division issues Plenary Retail Transit Licenses to fishing or excursion boats and to limousines. Applications for these licenses are submitted directly to the Division for consideration and approval. Applicants must publish public notice twice in a newspaper circulated within the municipality from which the license will be operated. These licenses authorize the sale and service of alcoholic beverages in transit. During the course of a background investigation, the Division may contact the municipality where the applicant's business address is located in order to ensure that local commercial requirements have been met. In the event that a municipality or an individual residing within a municipality, objects to the Division's approval of such an application, written objections may be addressed to the Director. There is no limit to the number of Retail Transit Licenses which may be issued to businesses within any municipality and the issuance of this type of license does not affect the number of municipally issued retail licenses permitted within a municipality. (N.J.S.A. 33:1-12.)

Notice to Municipalities on State Issued Licenses

When the Division of Alcoholic Beverage Control receives an application for a Retail Transit Boat License, Annual State Permit, Limited Brewery License, Farm Winery License, State Beverage Distributors License, or Special Permit for a Golf Facility, the Division will notify the municipality where the license will be located. In the event the municipality has objections to the issuance of this license/permit, the municipality should send their specific objections to the Director within ten

(10) days of the date of notification.

State Beverage Distributors License (SBD License)

The Division may issue a State Beverage Distributors License to qualified applicants who wish to sell malt alcoholic beverage products in larger quantities to retail customers. They also may sell the products at wholesale to retail licensees. Holders of this type of license are permitted to maintain both a sales facility and warehouse on their licensed premises; activity is limited to the sale of malt beverage products and soda. Application for this type of license, which is actually considered a wholesale level license with a retail privilege, is submitted directly to the Division for consideration and approval. During the course of background investigation, the proposed business address will be carefully examined for suitability as a licensed premises. The Division will contact the municipality to ensure that zoning and registry requirements have been satisfied. Applicants for this license must publish public notice two (2) times in a newspaper circulated in the municipality where the licensed business will be conducted. In the event that individuals or the municipality itself objects to the approval of the application, written objections may be addressed to the Director. The issuance of this license does not affect the maximum number of retail licenses permitted within a municipality. Municipal issuing authorities should be aware that licensees holding a Class "C" retail license are prohibited from holding interest in a State Beverage Distributors License since it falls within the category of wholesale licenses. (N.J.S.A. 33:1-11 (2c).)

SUSPENSION OF LICENSE

An order of suspension prohibits the licensee from engaging in any alcoholic beverage activity in or upon the licensed premises. A licensee may not receive delivery of alcoholic beverages, sell, or permit the consumption of alcoholic beverages on the premises. The licensee may not advertise that the licensed premises are closed for any reason other than that the license has been suspended by the Division. Other business activities, as detailed on the license application, such as the operation of a bowling alley or restaurant food service, may lawfully continue while a license is under suspension. Storage of alcoholic beverages may also continue on the licensed premises during the period of suspension. (N.J.A.C. 13:2-23.27.) (See "DISCIPLINARY PROCEEDINGS.")

When the issuing authority imposes an order suspending or revoking a license, a commencement date must be set. The licensee should be given an opportunity

to make necessary arrangements with employees and suppliers or to file an appeal.

The Director must be provided with a copy of the Resolution suspending or revoking a license.

Pursuant to N.J.A.C. 13:2-19.1, disciplinary proceedings may not be barred or abated by the expiration, transfer, surrender, renewal, or extension of the license.

TASTINGS

N.J.A.C. 13:2-37.1 permits consumption licensees, state concessionaire permittees, and social affair permittees to host tastings and tasting dinners. The alcohol served must be from the retailer's own inventory. The tastings cannot be open to the general public. Rather, entry to the tasting must be limited to a 24-hour advanced ticket purchase. At tasting dinners, the sizes of drink servings are limited to 5 ounces for beer or wine and 1½ ounces of distilled spirit. At tastings, the sizes of drink servings are limited to 4 ounces of beer, 1½ ounces of wine, and ½ ounce of fortified wine or distilled spirit.

New Jersey licensed wholesaler representatives holding a Solicitor Permit and owners of wineries, breweries, or distilleries may participate at the tasting event if they hold a special permit. See A.B.C. Bulletin 2466, Item 3 for further information.

TAX CLEARANCE CERTIFICATES

A retail licensee or prospective licensee is required to obtain a Tax Clearance Certificate from the New Jersey Division of Taxation before the license can be renewed or transferred. Prior to each renewal, the Division of Taxation will send to the municipal clerk in each municipality a list of the licensees who have received tax clearance certificates and are authorized for renewal. Any licensee who applies for transfer or renewal without submitting the necessary Tax Clearance Certificate should be referred to the Division of Taxation for a Tax Clearance Certificate before any action is taken by the municipality. The clerk may **accept** a timely filed application and fee even if the tax clearance certificate has not been issued by the Division of Taxation and/or received by the municipal issuing authority. However, the issuing authority has no jurisdiction to act on a renewal or a person-to-person transfer without the licensee having first obtained tax clearance. (N.J.S.A. 33:1-17.1.)

TRADE NAME

A trade name may be used by any retail licensee provided that the name is identified on page 2 of the license application. Multiple trade names may be used provided that a separate page 2 is submitted for each. A licensee must file an amendment to their license application when changing trade names. (See “CHANGE IN FACTS – AMENDMENT TO APPLICATION.”)

Trade names must be registered with the Secretary of State’s office. For a corporation, a renewable 5-year registration is made to the Secretary of State of New Jersey. For a sole proprietorship or partnership, registration is made with the county clerk of the county in which the licensed premises is located. Proof of trade name filing must be submitted with the license application. (N.J.S.A. 14A:2-2.1; N.J.S.A. 56:1-1; 1-2.)

TRANSIT INSIGNIA

Retail licensees who wish to transport alcoholic beverages for home delivery or any other purpose must apply to the Division for transit insignia. The fee is \$75 for each insignia ordered. (N.J.A.C. 13:2-20.1, et seq.)

TWO LICENSE LIMITATION

A “person” or entity may not hold an interest in more than two (2) retail licenses. Exceptions are permitted to those who held such interest prior to August 3, 1962, and licenses that are used in conjunction with a restaurant, a hotel with at least 100 sleeping rooms, a bowling alley with 20 or more lanes, or a business located at an international airport. Where the exception applies to a restaurant or bowling alley, the sale of package goods is prohibited. (N.J.S.A. 33:1-12.31 to 12.37.)

GLOSSARY OF FREQUENTLY USED TERMS

A.B.C. BOARD – An appointed three member, bipartisan board which may be established in any municipality which has a population of at least 15,000. The board has all of the powers, duties, and obligations relating to alcoholic beverage activity within a municipality and exercises them instead of the governing body.

ALCOHOLIC BEVERAGE – Any fluid or solid capable of being converted into a fluid, suitable for human consumption, and having an alcohol content of more than one half of one per cent (.5%) by volume.

BROAD PACKAGE PRIVILEGE – A privilege added to certain Plenary Retail Consumption Licenses in 1948 which permits the sale of package goods in areas of the licensed premises other than the principal barroom or which permits the sale only of package goods.

CATERING – The sale and service of alcoholic beverages by a retail consumption licensee in a place other than the permanently licensed premises. This activity is permitted when a Catering Permit is issued by the Division of Alcoholic Beverage Control.

INACTIVE LICENSE – An inactive license is a license that is not currently open and operating in a licensed premises.

INTEREST – The exercise of an ownership interest in a licensed business, the ability to derive profit from the operation of a licensed business, or an individual's service in the capacity of officer or director of a licensed business.

ISSUING AUTHORITY – For all retail licenses, except where a conflict of interest exists, the term “issuing authority” refers to the governing board of the municipality or the local A.B.C Board, if one has been created. The term “issuing authority” also applies to the Director of the Division of Alcoholic Beverage Control for all manufacturing, wholesale, and any retail licenses issued by him.

LEGAL AGE – The legal age for purchase and consumption of alcoholic beverages in the State of New Jersey is 21.

LICENSE YEAR – The term for which an alcoholic beverage license is issued, commencing on July 1 and remaining in effect until the following June 30. In the case of Seasonal Licenses, the terms are as follows: summer – May 1 through November 14, winter – November 15 through April 30.

LICENSED PREMISES – The portion of the licensee's property on which or from which alcoholic beverages may be sold, served, or stored. The premises are defined by responses to questions on page 3 of the license application form and further described by the accompanying sketch.

MALT ALCOHOLIC BEVERAGE – Beer, ale, stout, porter.

ORIGINAL CONTAINER – Any container in which an alcoholic beverage has been delivered to a retail license.

PERSON – The term “person” refers to an individual, partnership, or corporation unless the context clearly indicates an individual human being.

POCKET LICENSE – A pocket license is a license which has been issued, but is inactive. The license may be renewed by a municipality for two (2) full license terms beyond the term in which it became inactive. Following that period, the license may only be renewed after the Director of the Division of Alcoholic Beverage Control approves the renewal following certain strict procedures.

RESTAURANT – An establishment regularly and principally used for the purpose of providing meals to the public, having adequate kitchen and dining room equipped for the preparing, cooking, and serving of food for its customers and in which no other business, except such as is incidental to such establishment, is conducted.

RETAILER – Any person who sells alcoholic beverages to consumers.

SALE – Every delivery of an alcoholic beverage otherwise than by gratuitous title. This includes delivering, serving with meals, possessing with intent to sell, keeping and exposing for sale, and also the gratuitous delivery or gift of any alcoholic beverage by any licensee.

SUPPLIER – A manufacturer, bottler, or importer of alcoholic beverages.

TIED-HOUSE – Describes a prohibited interest between a supplier or wholesaler of alcoholic beverages and a retailer of alcoholic beverages. A retailer may not have any interest, even indirect, in any supplier or wholesaler of alcoholic beverages, and vice versa, unless under a very limited exception permitted by statute.

TRANSFER – A change in the ownership and/or location of an alcoholic beverage license which is considered by and enacted through a formal resolution approved by a municipal issuing authority or by the Director of the Division of Alcoholic Beverage Control.

UNDISCLOSED INTEREST – If a person who has an interest in an alcoholic beverage license is not properly disclosed in the license application, that person holds an undisclosed interest in the license and the license is thereby in violation.

APPENDIX

**PROCEDURE TO FILE AN APPEAL
WITH THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

Please be advised that in order to file and perfect an appeal, you should refer to the appropriate provisions of Title 33, such as N.J.S.A. 33:1-22, 25, 26, 31, 32, and 38 as well as N.J.A.C. 13:2-17.1, et seq. Where valuable legal rights are involved, we strongly suggest you seek advice from competent private legal counsel.

Procedurally, in order to file an appeal, you must file three items:

1. **A "NOTICE AND PETITION OF APPEAL," which:**

- A. Fully identifies the parties to appeal. Your appeal, therefore, should include:

Regarding the Licensee:

- (1) Licensee's proper name and trade name;
- (2) Complete address and telephone number where you can be reached; and
- (3) Complete license number.

Regarding the Issuing Authority:

- (1) Full name, address, and telephone number.

Regarding the Objector/Appellants (if any):

- (1) Full name, address, and telephone number of principal objectors. (Note potential "necessary standing to sue" as "aggrieved parties" issue.)
- B. Describe the proceedings below (i.e., disciplinary hearing);
- C. Set forth both the date of the action being appealed and attach a copy of the Resolution;
- D. List the grounds of the appeal; for example, action was arbitrary and capricious, etc.;
- E. State the relief (both interim and final) requested.

APPENDIX "A"

For example, for interim relief, a licensee might request a *Stay of Suspension* (for disciplinary actions) or an *Order* extending the prior license into the new term (for denial of renewal).

Similarly, for final relief, a licensee might request reversal of findings of guilt and penalty imposed by the local issuing authority and/or payment of a monetary penalty in lieu of suspension.

NOTE: The Notice and Petition of Appeal must be **signed** by either the licensee (sole proprietor, general partner, president, or vice president) or an attorney who represents the licensee in the appeal.

2. An AFFIDAVIT OF SERVICE which states that a copy of the Notice and Petition of Appeal has been served upon the local issuing authority (either personally or by way of regular mail).
3. A **\$100 FILING FEE** (check or money order made payable to Division of ABC.)

REQUESTING INTERIM RELIEF

(Regarding Interim Relief, see N.J.S.A. 33:1-22.31 and N.J.A.C. 13:2-17.8 to 17.10.)

If you are requesting Interim Relief in addition to the above, we require a copy of the **RESOLUTION** of the issuing authority which sets forth the action being appealed. Until we receive a Resolution which memorializes the action taken by the local issuing authority with respect to the license, we are unable to consider issuing an Order pursuant to an Appellant's request for interim relief. That is because without the Resolution, we are unable to determine exactly what action was taken by the issuing authority and is being appealed, as well as what specific relief is required.

If you are unable to provide us with a signed copy of the Resolution, please have a draft copy of the Resolution faxed to us. (FAX Number: (609) 633-6078.) Absent same, we require certification from someone who has personal knowledge of the facts that:

1. The issuing authority will not provide you with a copy of the signed, or a draft of, the Resolution taking action against the license. Please note reasons given, if any; and

2. To the best of your knowledge and belief, the town's action against the license was as follows: (then set same forth with specificity).

Therefore, until we receive a copy of the Resolution (or certification), we are unable to consider issuing Interim Relief. We will, however, docket the appeal which tolls the time limit in which to file an appeal.

TIME LIMITS

(See N.J.S.A. 33:1-22.31 and N.J.A.C. 13:2-17.3.)

1. A licensee or prospective licensee has 30 days after the date of personal service (or of the mailing of the notice by registered mail) of the formal Resolution by the issuing authority to not grant the licensee's request to file an appeal. "De facto" denials, by non-action on the part of the municipal issuing authority, may be appealed as follows:

- A. **Application for Issuance:** 45 days from the date of a duly filed application for issuance of a new license unless applicant consents to an extension. N.J.A.C. 13:2-2.10(a).
- B. **Application for Renewal:** 90 days after expiration of term. N.J.A.C. 13:2-2.10(b).
- C. **Application for Transfer:** 60 days after the date of filing the application. N.J.A.C. 13:2-7.7(d).

NOTE: For the "de facto" time period to begin, the application filed must be fully complete, all fees paid, and all required disclosures must have been made by the applicant.

2. For all other parties, an appeal must be filed within 30 days of the action taken by the issuing authority.

**DAVID N. BREGENZER
COUNSEL TO THE DIRECTOR
NEW JERSEY DIVISION OF ALCOHOLIC BEVERAGE CONTROL**

LIQUOR LICENSE TRANSFER GUIDE

The following information should only be used as a guide in processing transfer applications. An issuing authority may require additional information prior to considering a transfer application.

- 12-Page Application submitted in **TRIPLICATE** (all original signatures).
TYPES OF TRANSFERS: Person-to-Person, Place-to-Place, or Person-to-Person and Place-to-Place.
- 10% of Annual License Renewal Fee for Person-to-Person transfer.
10% of Annual License Renewal Fee for Place-to-Place transfer.
- %20 of Annual License Renewal Fee for both Person-to-Person and Place-to-Place transfers.
- \$200 Check or Money Order payable to:
STATE OF NJ, DIVISION OF ALCOHOLIC BEVERAGE CONTROL
- CONSENT TO TRANSFER (Consent of Sale), *signed by license holder and notarized*.
- Disclosure Statement of applicant (source of funding) for license purchase.
- Federal and State Fingerprint Reports from Police.
- Additional Investigative Report from Police.
- Detailed sketch of premises and proposed licensed area (including photo of outside of premises).
- Affidavit of Publication. Notice of Intent to Transfer, published twice, one week apart, giving the public the opportunity to communicate any objections to the transfer, in writing, to the Clerk of the Local Issuing Authority.
- **BUYER** (Transferee): Certificate of Sales Tax Authority submitted.
- **SELLER** (Transferor): Tax Clearance Certificate submitted.
- Application for Bulk Sale Permit. If purchasing existing inventory/stock of alcohol of present license holder, completed application must be accompanied by \$75 check made payable to NJ Div. of Alcoholic Beverage Control. No check necessary if not purchasing existing stock, but the form must still be submitted. **COMPLETED FORM MUST BE FILED WITH TRANSFER APPLICATION.**
- Letter from Buyer's Attorney notifying Local Issuing Authority of closing date of license purchase.
- Resolution of Transfer passed by issuing authority. **RESOLUTION CANNOT BE CONTINGENT ON ANOTHER ACTION.** See ABC Bulletin 2473, Item #3 (May 30, 1997).
- License amended to reflect new ownership and generation change/application with appropriate checks forwarded to Director, Division of Alcoholic Beverage Control.

RECOMMENDED FOR TRANSFeree:

- Disciplinary Background Search - \$25 fee. Requests should be made to the ABC Enforcement Bureau, Division of ABC, P.O. Box 087, Trenton, NJ 08625-0087.
- C.O.D. Matters - To determine if license is on C.O.D., please contact the "Credit Compliance Corporation at (609) 585-8000.

APPENDIX “B”

BULLETIN 2470

2. NOTICE REGARDING DISCLOSURE POLICY

DISCLOSURE POLICY

I. LICENSE APPLICANT LEVEL (The entity that will be licensed.)

A. This level constitutes the primary interest in the applied-for license. All interest in the license must be accounted for on the license application, including all individuals holding 1% or more interest in the applicant if it is a corporation. Limited Liability Companies must disclose all members. Individuals named at this level are required to be fingerprinted, disclose and document the source of funds used to acquire their license interest and document their age. They may hold no other interest which would constitute a tied-house or two license limitation violation.

B. If interest holders are not residents of the United States, they must execute affidavits certifying their qualifications and provide a record (or document lack of record) of their criminal background from their national law enforcement agency. If criminal background information is prepared in a language other than English, a certified English translation must be submitted.

C. If the actual operation of a licensed business is delegated to an on-site manager (e.g., in the case of a national restaurant chain), the manager and any other individual who, through performance of their on-site duties act in the capacity of the licensee, must also be disclosed in the license application, fingerprinted and qualified as described in paragraph IA. These management responsibilities include the hiring and firing of employees, placing orders for alcoholic beverages and making business decisions concerning pricing or marketing.

APPENDIX "C"

BULLETIN 2470

II. LICENSE APPLICANT SHAREHOLDER LEVEL

A. This level describes removed interests; those with direct or indirect interest in the license applicant. Shareholders of the license applicant, general or limited partners and LLC members who are closely held corporations, partnerships or LLC's in their own right and must be fully identified in the license application. Individuals disclosed at this level must execute an affidavit as to their age and qualifications. Individuals disclosed at this level who exercise significant direct control or influence over the operation of the license applicant, must be fingerprinted and qualified as described in paragraph IA.

B. The officers, directors and trustees of publicly traded corporations holding an interest in a license applicant must be disclosed in the license application, unless the Director or municipal issuing authority determines that an alternate form of disclosure is acceptable. Regardless of the format, individual disclosures must include all information required by the license application. Any individual disclosed at this level who exercises control or direct influence over the operation of the license applicant must be fingerprinted.

C. Individuals holding 10% or more of the stock of a publicly traded corporation which has an interest in a license applicant must be identified in the license application. The Director or municipal issuing authority may determine to accept appropriate Securities and Exchange Commission Reports or filings in support of the qualifications of such individuals.

D. Institutional investors (i.e., pension or stock funds), and interests held in trust must qualify through the trustee responsible for administration of the fund or trust. Trustees must be disclosed and execute affidavits as to their qualification.

III. SUBMISSION OF RECORDS IN SUPPORT OF APPLICATION

In addition to the business disclosure noted above, the Division of Alcoholic Beverage Control and municipal issuing authorities may require submission of any or all of the following records and documents in support of a license application. This information is to be submitted by the applicant as part of the qualifying investigation procedure. It will be maintained as confidential and will not be available for public review.

BULLETIN 2470

BUSINESS RECORDS:

Original letter of business intent-describing the proposed business and method of operation

Partnership Agreement

Limited Liability Company Notice of Formation and Operating Agreement

Corporate Certificate of Incorporation and all subsequent amendments

Proof of Fictitious or Trade Name registration

Certificate of New Jersey Business Authority (non-New Jersey applicants only)

Copies of all issued Stock Certificates (front and back), or most recent SEC Filing Statement containing shareholder information

Certificate of New Jersey Sales Tax Authority (if applicable)

Copy of all applicable TTF Permits issued to applicant

Copy of all other alcoholic beverage licenses issued to applicant by other States

FINANCIAL RECORDS:

Agreements of Sale for purchase of license, business and/or proposed premises

Mortgage or Loan Agreements and Promissory Notes, including any pledge or Escrow Agreement of Corporate Stock Shares

Business and personal Federal Income Tax returns for the past two years

Copies of business and personal checking and savings statements, canceled checks and bank deposit slips to document the funding of the license

BULLETIN 2470

Audited Financial Statements

Corporate Annual Reports

Securities and Exchange Commission filing statements

PREMISES INFORMATION:

Detailed sketch of the proposed premises, identifying all entrances, exits, exterior areas to be covered under the license, indicating dimensions of the premises in square feet. If any adjacent grounds are to be licensed, these areas must also be included in the sketch

Copy of Lease Agreement, Title or Mortgage Agreement(s) and applicable note(s) covering the proposed premises

Certificate of Occupancy and other applicable zoning records associated with the proposed premises

If proposed premises is a boat, copy of the United States Coast Guard Certificate of Documentation issued to the vessel

If proposed premises is a limousine, a copy of motor vehicle registration and photograph of the vehicle

WRITTEN CONSENT TO TRANSFER FORM

On this _____ day of _____,
20_____, _____ hereby consents to
transfer Plenary Retail Consumption License No. _____
to _____. On behalf of the licensee,
_____ I as _____,
authorize the issuing authority to consider the transfer
application filed by _____.

APPENDIX “D”

BULLETIN 2473

3. NOTICE TO ALL MUNICIPALITIES - FORM OF RESOLUTION APPROVING TRANSFERS

The Division has received inquiries from Municipal Attorneys requesting guidance on the proper form for municipal resolutions approving transfers which are conditional upon some future event. Examples of such conditions are:

1. A closing taking place in the future,
2. Receipt of investigative reports or fingerprint cards,
3. Receipt of a Certificate of Occupancy,
4. Receipt of zoning and/or planning board approval.

There are inherent difficulties in a resolution which approves a transfer but recites that the approval is conditioned upon or subject to a closing being held in the future. It is difficult for the Division of ABC and the issuing authority to be certain who is properly operating the license at any particular time in this situation. The issuing authority and the Division of ABC may not receive timely notice of when a closing is completed, and in rare situations, no closing may take place at all. On prior occasions the Division of ABC has advised municipal clerks that a transfer resolution is effective upon the date of its adoption unless another specific date is identified therein. If the condition is not fulfilled, the issuing authority has no remedy other than to charge the new licensee with a regulatory violation. The issuing authority may not revisit the resolution and change it absent special circumstances.

Resolutions which are not contingent upon a future event, but plainly recite that they are effective on a future date certain, are an acceptable alternative. For example, a resolution contingent upon a closing taking place in the future would not be acceptable. On the other hand, a resolution approving a transfer of a license, effective on a specific future date would be acceptable. However, the transfer will automatically become effective on that date certain unless the issuing authority takes some affirmative action to rescind its resolutions before then.

You should also be advised that no transfer of any license may take place before receipt of a Tax Clearance Certificate from the Division of Taxation. Resolutions which approve an issuance or transfer before receipt of the Certificate are null and void.

APPENDIX "E"

SAMPLE RESOLUTION FOR PERSON-TO-PERSON TRANSFER

WHEREAS, an application has been filed for a Person-to-Person Transfer of Plenary Retail Consumption License Number 0000-00-000-000, heretofore issued to John J. Smith for premises located at 125 Main Street, Metro Township, New Jersey;

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term;

WHEREAS, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33;

WHEREAS, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the license business;

NOW, THEREFORE BE IT RESOLVED that the Metro Township Governing Body does hereby approve, effective January 1, 20____, the transfer of the aforesaid Plenary Retail Consumption License to XYZ, Inc., and does hereby direct the Township Clerk/A.B.C. Board Secretary to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to XYZ, Inc., effective January 1, 20____."

APPENDIX "F"

SAMPLE RESOLUTION FOR PLACE-TO-PLACE TRANSFER

WHEREAS, an application has been filed for a Place-to-Place Transfer of Plenary Retail Consumption License Number 0000-00-000-000, issued to John J. Smith for premises heretofore located at 125 Main Street, Metro Township, New Jersey (or if applicable, for an inactive license with a mailing address of P.O. Box 100, Metro Township, New Jersey);

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term;

NOW, THEREFORE BE IT RESOLVED that the Metro Township Governing Body does hereby approve, effective January 1, 20____, the Place-to-Place Transfer of the aforesaid Plenary Retail Consumption licensed premises, from its former location at 123 Main Street, Metro Township, New Jersey, to its new location at 128 Elm Street, Metro Township, New Jersey, and does hereby direct the Township Clerk/A.B.C. Board Secretary to endorse the license certificate as follows: "This license, subject to all of its terms and conditions, is hereby transferred to premises located at 128 Elm Street, Metro Township, New Jersey."

APPENDIX “G”

SAMPLE RESOLUTION FOR PLACE-TO-PLACE TRANSFER
(Extension of Premises)

WHEREAS, an application has been filed for a place-to-place transfer (Expansion of Premises) of Plenary Retail Consumption License 0000-00-000-000, for purposes of expanding the premises under license wherein the sale, service, and storage of alcoholic beverages are authorized;

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term;

NOW, THEREFORE BE IT RESOLVED that the Metro Township Governing Body does hereby approve, effective January 1, 20____, the expansion of the aforesaid Plenary Retail Consumption licensed premises located at 128 Elm Street, Metro Township, New Jersey, to place under license the area delineated in the application form and the sketch of the licensed premises attached thereto.

APPENDIX "H"

SAMPLE RESOLUTION FOR EXTENSION OF LICENSE TO
EXECUTOR/EXECUTRIX

WHEREAS, an application has been filed for the extension of Plenary Retail Consumption License 0000-00-000-000 to the Executor of the Estate of John J. Smith, sole proprietor owner of the license;

WHEREAS, the submitted application form is complete in all respects, including proof of appointment to act as Executor;

NOW, THEREFORE BE IT RESOLVED that the Metro Township Governing Body does hereby approve, effective January 1, 20____, the extension of the aforesaid Plenary Retail Consumption License to John S. Doe to conduct business under the privileges, terms, and conditions of the license as Executor of the estate of John J. Smith for the benefit of the estate until such time as the will is probated and the license may be transferred in compliance therewith and directs the Township Clerk/A.B.C. Board Secretary to endorse the License Certificate as follows: "This license is hereby extended, subject to all its terms and conditions to John S. Doe, Executor, until June 30, 20____."

APPENDIX "I"

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
140 EAST FRONT STREET, P.O. BOX 087
TRENTON, NJ 08625-0087

**APPLICATION FOR SPECIAL PERMIT TO OPERATE UNDER LICENSE
OF A DECEASED PERSON PENDING EXTENSION OF SUCH LICENSE
TO THE EXECUTOR OR THE ADMINISTRATOR [AE]**

Applications must be accompanied by a fee of **\$50.00** payable by check or money order drawn to the order of the Division of Alcoholic Beverage Control.

TYPE OR PRINT ANSWERS

1. Name to whom license is issued _____

2. License Number _____
3. Address of Licensed Premises _____

4. Name of Decedent _____
5. Date of Death _____
6. Did Decedent leave a Will? _____Yes _____No
7. Name of Executor or Administrator _____

8. Address of Executor or Administrator _____

9. Telephone Number of Executor or Administrator _____

(Area Code)
10. Has the County Surrogate appointed the Executor or the Administrator? _____Yes _____No

APPENDIX "J"

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087, 140 EAST FRONT STREET
TRENTON, NJ 08625-0087

PETITION TO EXTEND LICENSED PREMISES [EP]

Petition must be accompanied by a **\$75.00** fee per day for New Jersey licensees, payable in **CHECK** or **MONEY ORDER**. Fee should be payable to the Division of Alcoholic Beverage Control.

TO: Director, Division of Alcoholic Beverage Control

Applicant Name _____

Address of Applicant _____

Petitioner is holder of Retail License No. _____

Petitioner is holding event for _____

to be held on _____ between the hours of _____

and _____. Rain Date _____

Petitioner intends to extend the license premises to include

**PLEASE ATTACH A SKETCH OF THE EXTENSION AREA TO THIS FORM.
APPLICATION WILL NOT BE PROCESSED WITHOUT SKETCH.**

Dated

Signature/Title of Applicant

***NO PERMIT WILL BE GRANTED UNLESS WRITTEN APPROVALS
ARE OBTAINED. SEE REVERSE SIDE.**

APPENDIX "K"

I hereby certify that there is no objection to the granting of a Special Permit to above applicant to sell alcoholic beverages at the affair to be held on aforesaid date and extended premises, subject, however, to the following Special Conditions (if any):

SIGNATURE OF POLICE CHIEF

MUNICIPALITY WHERE AFFAIR IS TO BE HELD

DATE OF SIGNATURE

I hereby certify that the license issuing authority of this municipality has no objection to the granting of a Special Permit herein applied for and consents thereto. I further certify that the issuance of said Permit is not contrary to any local ordinance, resolution, regulation or policy which would prohibit same.

SIGNATURE OF CLERK

MUNICIPALITY WHERE AFFAIR IS TO BE HELD

DATE OF SIGNATURE/SEAL

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087, 140 EAST FRONT STREET
TRENTON, NJ 08625-0087

APPLICATION FOR BULK SALE PERMIT [BSP]

Pursuant to R.S. Title 33, c.1; N.J.A.C. 13:2-23.12, this application must be completed and filed with the Municipal Clerk/A.B.C. Board Secretary with **ALL** Applications for "Person-to-Person" License Transfers. If the new licensee is also purchasing alcoholic beverage inventory, the application must be accompanied by Check or Money Order in the amount of **\$75.00** payable to the Division of Alcoholic Beverage Control.

1. 12-Digit Liquor License No. _____
2. Name of Person (individual, partnership, corporation) to whom the liquor license is to be transferred:

3. Address of licensed premises:

4. Name of former licensee (prior to this "Person-to-Person" Transfer):

5. Is alcoholic beverage inventory being purchased in connection with this license transfer? _____ Yes _____ No

(If answer to Question No. 5 is "Yes," a Check or Money Order in the amount of **\$75.00** **MUST** accompany the application. If the answer is "No," the application should be filed **WITHOUT** the fee).

Print Name of Applicant

Signature of Applicant

Date

TO: MUNICIPAL CLERK/SECRETARY OF MUNICIPAL A.B.C. BOARD
--

This application for a Bulk Sale Permit is to be forwarded to the Division of Alcoholic Beverage Control with the State copy of the Transfer Application or with the Municipal Resolution of Transfer.

APPENDIX "L"

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. Box 087, 140 East Front Street
Trenton, NJ 08625-0087

APPLICATION FOR CATERING PERMIT [CT]

PLENARY RETAIL CONSUMPTION LICENSEE TO SERVE OFF THE LICENSED PREMISES

Application must be accompanied by a fee of \$100.00 for each 24-hour period, payable by CHECK or MONEY ORDER to the Division of Alcoholic Beverage Control.

Pursuant to N.J.S.A. 33:1-74, undersigned makes application for a Special Permit to sell, dispense and serve alcoholic beverages off the licensed premises.

1. Name of Licensee_____
2. License Number_____
3. Address of Licensed Premises_____

4. For what type of event is this Permit sought?_____

5. Location of premises where affair will be held:
Name_____
Address_____
Is affair to be held indoors or outdoors?_____

APPLICATIONS SHOULD BE SUBMITTED AT LEAST TWO WEEKS PRIOR TO THE EVENT

SUBMIT A DETAILED SKETCH OF THE LOCATION WHERE ALCOHOLIC BEVERAGES ARE TO BE DISPENSED. PLEASE INCLUDE THE BAR AREA AND LOCATION OF PERSON/PERSONS CHECKING ID'S FOR ANYONE UNDER THE LEGAL AGE.

6. State date affair will be held and between what hours alcoholic beverages will be dispensed:
_____, 20____ from_____ to _____
(Date) (Time) (Time)
Rain Date:_____
7. Will a charge be assessed by ticket, contribution or otherwise? Yes() No()
8. Will there be a cash bar? Yes() No()
9. Are the premises where the affair is to be held owned by a municipality, county or the State?
Yes() No()
If yes, state the name of owner_____
For what purpose is premises normally used?_____
10. Is affair to be held on church property? Yes() No()
Are the premises where affair is to be held licensed? Yes() No()
If yes, state the license number_____

APPENDIX "M"

11. Check the types of alcoholic beverages to be dispensed if Permit is granted:

Wine() Distilled Spirits() Malt Alcoholic Beverages()

The applicant represents that if a Special Permit is issued, the permittee will fully abide by all provisions of the New Jersey Alcoholic Beverage Law, State Rules and Regulations, and Municipal Ordinances and Regulations, the same as if the sale and service were occurring upon the applicant's licensed premises.

Print Name of Authorized Signator

Signature

The following consent is to be signed by the person so authorized at the premises where the affair is to be held, including property under the control of a unit of government, municipality, county or State; a church; or a premises under license or other privately owned facility.

I certify that I am the person authorized to permit the sale and service of alcoholic beverages on the premises described in the application form, and I certify that there is no objection to the sale and service of alcoholic beverages as herein specified.

Date

Print Name and Title of Signator

Signature

NO PERMIT WILL BE GRANTED UNLESS WRITTEN MUNICIPAL APPROVALS
PROVIDED FOR BELOW ARE FIRST OBTAINED.

This is to certify that there are no objections to the issuance of the Permit applied for herein and that NOT MORE THAN 25 SPECIAL PERMITS HAVE BEEN AUTHORIZED FOR THESE PREMISES DURING THIS CALENDAR YEAR.

Police Chief (Name)

Municipal Clerk (Name)

Signature

Signature

Name of Municipality

Name of Municipality

Date

Date

MUNICIPAL SEAL

TYPE OR PRINT NAME AND ADDRESS OF PERSON TO WHOM PERMIT IS TO BE MAILED:

NAME _____

ADDRESS _____

TELEPHONE NO. () _____

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087, 140 EAST FRONT STREET
TRENTON, NJ 08625-0087

APPLICATION FOR SPECIAL PERMIT FOR SOCIAL AFFAIR [SA]

SOCIAL AFFAIR PERMITS WILL ONLY BE ISSUED TO NON-PROFIT ORGANIZATIONS

Applications must be accompanied by a fee of **\$100.00** PER DAY for Civic, Religious, or Educational Organizations; **\$150.00** PER DAY for all other NON-PROFIT organizations, payable with a MONEY ORDER or CHECK made out to the order of the DIVISION OF ALCOHOLIC BEVERAGE CONTROL.

NOTICE: ORGANIZATIONS MAKING APPLICATION FOR THE FIRST TIME, MUST SUBMIT PROOF OF NON-PROFIT STATUS IN NEW JERSEY. COMBINATIONS OF CERTIFICATE OF INCORPORATION, CHARTER OR BY-LAWS, FEDERAL TAX EXEMPT CERTIFICATE, FINANCIAL RECORDS AND MEMBERSHIP LIST (NAMES AND ADDRESSES INCLUDED) ARE ACCEPTABLE FORMS OF PROOF. THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL RESERVES THE RIGHT TO REQUEST ADDITIONAL INFORMATION IF DOCUMENTATION SUBMITTED IS NOT SUFFICIENT.

APPLICATION MUST BE SUBMITTED AT LEAST TWO WEEKS PRIOR TO THE DATE OF THE AFFAIR

Pursuant to **N.J.S.A.** 33:74-1 and **N.J.A.C.** 13:2-5.1, the undersigned makes application for a Special Permit to sell, dispense and serve alcoholic beverages for consumption at an affair as stated herein:

PLEASE PRINT CLEARLY OR TYPE

1. Name of Organization _____
Address _____
2. Has organization held a Special Permit for Social Affair during the past 3 years? _____ **If no, show proof of non-profit status.**
3. Location of premises where affair will be held: **(Describe Specifically)**
Name _____
Address _____
4. For what type of Social Affair is this Permit requested? _____
5. Are premises where affair is to be held licensed? _____ If Yes, give type and License Number _____
6. State date affair will be held and between what hours alcoholic beverages will be dispensed:

_____ 20 _____ From _____ To _____
(Date) (Time) (Time)

RAIN DATE: _____

7. For what purposes was your Non-Profit Organization formed? _____
8. How many members does organization have? _____ How many under the legal age? _____
9. Does organization hold a liquor license? _____ If yes, give type and License Number _____
10. How will a charge be assessed? TICKET() CONTRIBUTION () OTHER _____
11. Are the premises where the affair is to be held owned by a municipality, county or State? _____
If so, state name of owner _____
For what purposes are premises used? _____
12. Check kinds of alcoholic beverages to be dispensed if Permit is granted:
WINE _____ DISTILLED SPIRITS _____ MALT ALCOHOLIC BEVERAGES _____
13. Are persons under the legal age to be admitted? _____
If Yes, will they be accompanied by adults of age to consume alcoholic beverages? _____
14. To whom and for what will the proceeds of the affair accrue? _____

PLEASE ATTACH A SKETCH OF THE LOCATION WHERE ALCOHOLIC BEVERAGES ARE TO BE DISPENSED. INCLUDE THE BAR AREA AND LOCATION OF PERSON/PERSONS CHECKING ID'S FOR ANYONE UNDER THE LEGAL DRINKING AGE. PERMITS WILL NOT BE ISSUED WITHOUT SKETCH.

TYPE/PRINT NAME AND ADDRESS OF PERSON TO WHOM PERMIT IS TO BE MAILED:

NAME _____
ADDRESS _____
TELEPHONE NO. () _____

APPENDIX "N"

NO PERMIT WILL BE GRANTED UNLESS WRITTEN APPROVALS FOR BELOW ARE OBTAINED

If a Special Permit is granted, applicant agrees that alcoholic beverages will not be sold or served to anyone under the legal age, nor will such persons be permitted to consume alcoholic beverages at aforesaid affair and certifies that all conditions set forth in said Permit, all rules and regulations pertaining thereto and all ordinances and/or resolutions of the municipality where aforesaid affair is to be held will be complied with; and that permission is hereby given the Director of the Division of Alcoholic Beverage Control, Division of Taxation, and their duly authorized investigators and agents, and to any local peace officer to investigate the sale of alcoholic beverages at the social affair for which this application is made. Gambling, mock gambling and gambling paraphernalia are not permitted on the premises licensed by the Special Permit unless otherwise approved by the Legalized Games of Chance Commission (973) 273-8000. **I HEREBY CERTIFY THAT THIS ORGANIZATION HAS NOT EXCEEDED ITS LIMIT OF 12 SPECIAL PERMITS DURING THIS CALENDAR YEAR.**

(Signature of Authorized Officer and Title)

(Name of Organization)

Date of Signature _____

I hereby certify that there is no objection to the granting of a Special Permit to above applicant to sell alcoholic beverages at the affair to be held on aforesaid date and premises, subject to, however, the following Special Conditions (if any):

(Signature of Chief of Police)

(Municipality where affair is to be held)

Date of Signature _____

I hereby certify that the License Issuing Authority of this municipality has no objection to the granting of a Special Permit herein applied for and consents thereto. I further certify that the issuance of said Permit is not contrary to any local ordinance, resolution, regulation or policy which would prohibit same.

(Signature of Clerk)

(Municipality where affair is to be held)

Date of Signature/Seal: _____

The following consent is to be signed by the person so authorized of the premises where the affair is to be held.

I hereby certify that I am the person in charge of the premises upon which the herein affair will be held, that I am fully authorized to and do hereby certify that there are no objections to the sale and service of alcoholic beverages upon such premises at such affair. **I HEREBY CERTIFY THAT THIS PREMISE HAS NOT EXCEEDED ITS LIMIT OF 25 SPECIAL PERMITS DURING THIS CALENDAR YEAR.**

(Signature and Title)

Date of Signature _____

**NOTICE: NO REBATE, REFUND OR TRANSFER WILL BE GRANTED
IN EVENT THE AFFAIR IS NOT HELD**

Issuance of the Permit will allow the organization to purchase alcoholic beverages for resale at the affair specified in the application from any licensed wholesaler or retailer. All advertising, tickets, etc., for the affair which contain reference to alcoholic beverages must include this Permit Number.

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
P.O. BOX 087, 140 EAST FRONT STREET
TRENTON, NJ 08625-0087

APPLICATION FOR TEMPORARY STORAGE PERMIT [TE]

Print or type answers to questions. Applications must be accompanied by a CHECK or MONEY ORDER payable to the DIVISION OF ALCOHOLIC BEVERAGE CONTROL in the amount of **\$25.00 plus \$2.00 per day** for the number of days the Permit is needed.

1. Name of Licensee_____
2. License Number_____
3. Address of Licensed Premises_____

4. Telephone Number_____
(Area Code)
5. Location of place where alcoholic beverages will be temporarily stored: _____
6. Dates requested for use of Temporary Storage Permit:
From_____ Through_____
7. State reason why temporary additional storage is needed:

Date _____
(Type or Print Name of Licensee)

(Signature of Licensee)

APPENDIX "O"

NO PERMIT WILL BE GRANTED WITHOUT MUNICIPAL ENDORSEMENTS

This application is to be endorsed by the Chief of Police of the municipality wherein the place of temporary storage is located.

I certify that there is no objection by the police department to the granting of a Special Permit to this applicant to temporarily store alcoholic beverages at the address indicated on this application.

(Type or Print Name of Chief of Police)

(Signature of Chief of Police)

*This application is also to be endorsed by the **Municipal Clerk** of the municipality wherein the place of temporary storage is located.*

I certify that the municipality has no objection to the issuance of a Special Permit to the applicant to temporarily store alcoholic beverages at the address indicated on this application.

(Type or Print Name of Municipal Clerk)

(Signature of Municipal Clerk)

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